

# EXHIBIT 256

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF LOUISIANA  
LAFAYETTE DIVISION

STATE OF ARIZONA, et al., )

)

Plaintiffs, )

)

v. ) Civil Action

) No. 6:22-cv-01130

MERRICK GARLAND, in his )

official capacity as )

Attorney General of the )

United States, et al., )

)

Defendants. )

)

30(b)(6) VIDEOCONFERENCE DEPOSITION OF ANDREW ARTHUR  
ON BEHALF OF STATE OF LOUISIANA

(Taken by Defendants)

Via Videoconference

Thursday, November 30, 2023

Reported in Stenotype by  
Diane Pressley, Shorthand Reporter  
Transcript produced by computer-aided transcription

APPEARANCES

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ALSO PRESENT:

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1 30(b)(6) ZOOM VIDEOCONFERENCE DEPOSITION OF ANDREW  
2 ARTHUR ON BEHALF OF STATE OF LOUISIANA, a witness called  
3 on behalf of Plaintiffs, before Diane Pressley, Notary  
4 Public, in and for the State of North Carolina, all  
5 parties appearing via videoconference, held on Thursday,  
6 November 30, 2023, commencing at 11:01 a.m.

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1 ANDREW ARTHUR,  
2 having been first duly sworn, was examined and  
3 testified as follows:

4 EXAMINATION

5 BY MS. RYAN:

6 Q. Good morning, Mr. Arthur.

7 A. Good morning, Ms. Ryan.

8 Q. Before we start I want to go over just a few  
9 ground rules so we're on the same page for today.  
10 I will be asking you a series of questions. The  
11 court reporter will be recording your answers so you  
12 must give verbal responses. Please do not nod your head  
13 or say "uh-uh." Do you understand?

14 A. Yes, ma'am.

15 Q. Please keep your voice up and speak clearly so  
16 the court reporter can transcribe the deposition  
17 accurately. Please wait for me to finish asking a  
18 question before you answer, that will help the court  
19 reporter take down what we say and get us through the  
20 deposition a little quicker. Do you understand?

21 A. Yes, ma'am.

22 Q. If you do not understand a question please tell  
23 me and I will rephrase it. If you do not hear any part  
24 of a question please tell me and I will repeat it. Do  
25 you understand?

1 A. Yes, I do, Counsel.

2 Q. Unless you tell me otherwise, I will assume that  
3 you have understood and heard the entire question.  
4 Please do not guess. If you do not know the answer to a  
5 question tell me that you do not know. Do you  
6 understand?

7 A. I do.

8 Q. This testimony is given under oath, which is  
9 similar to the oath you would take on the stand at  
10 trial. Do you understand you took an oath to give  
11 complete and truthful answers?

12 A. I do.

13 Q. If you realize during the deposition that an  
14 earlier answer was inaccurate or incomplete, please let  
15 me know and I will give you a chance to correct it.

16 You may review the transcript that will be  
17 generated by the court reporter, and after your review  
18 you can correct any errors you may find, but if you make  
19 changes to the transcript I may be able to comment on  
20 those changes at trial. Do you understand?

21 A. I do.

22 Q. We can take breaks during the deposition. If you  
23 need a break just let me know, but we cannot take a  
24 break while a question is pending, so if a question has  
25 been asked, please answer the question and then we can

1 take whatever break you need. Do you understand?

2 A. I do.

3 Q. We're holding this deposition virtually. The  
4 parties agree that the remote deposition of the deponent  
5 may be used at trial or a hearing to the same extent  
6 that an in-person deposition may be used, and the  
7 parties agree not to object to the use of the record  
8 from today's deposition on the basis that it was taken  
9 remotely.

10 MS. RYAN: To counsel, do you agree?

11 A. I do.

12 BY MS. RYAN:

13 Q. Sorry, that was to Mr. St. John.

14 MR. ST. JOHN: We will -- we're not  
15 stipulating to anything beyond the federal rules. The  
16 rules are the rules.

17 MS. RYAN: So you won't agree that you won't  
18 object just on the basis of this deposition was taken  
19 remotely?

20 MR. ST. JOHN: Counsel, the rules are the  
21 rules, and we will comply with the rules. Nothing more,  
22 nothing less.

23 BY MS. RYAN:

24 Q. Also because the deposition is virtual the court  
25 reporter is obviously not in the same room as you,

1 Mr. Arthur.

2 MS. RYAN: To counsel, do we agree that the  
3 court reporter is an officer and is permitted to  
4 administer the oath to you -- to the witness by video  
5 conference?

6 MR. ST. JOHN: We will agree to the rules,  
7 nothing more, nothing less.

8 BY MS. RYAN:

9 Q. Mr. Arthur, are you currently in a quiet place  
10 where you will not be disturbed or overheard?

11 A. I am, ma'am.

12 Q. Do you agree not to text, call, email, or instant  
13 message any other person during the deposition unless we  
14 are on a break and no question is pending except for the  
15 purpose of determining whether a privilege should be  
16 asserted?

17 A. Yes, ma'am.

18 Q. And do you agree not to record any portions of  
19 today's deposition?

20 A. I do.

21 Q. Do you understand the rules of the deposition or  
22 have any questions before we proceed?

23 A. I understand. Thank you, Counsel.

24 Q. Are there any physical or mental conditions that  
25 could interfere with your testimony today?

1 A. There are not.

2 Q. Is there any reason you cannot give full,  
3 accurate, or truthful testimony today?

4 A. There is not.

5 Q. When did the become aware of this lawsuit?

6 A. I have to actually think about that. I track  
7 lawsuits generally with respect to the immigration law  
8 so I can't tell you a specific time.

9 Q. So you were aware of the lawsuit before you were,  
10 became a witness?

11 A. Honestly, I can't tell you that. In my current  
12 position I'm the Resident Fellow in Law and Policy for  
13 the Center for Immigration Studies, so I keep track of  
14 litigation, a number of cases that involve immigration.  
15 I can't tell you whether it was before or after.

16 Q. Did you review any documents to prepare for  
17 today's deposition?

18 A. I did.

19 Q. What did you review?

20 A. I reviewed documents that were provided to me by  
21 the Department of Justice of the State of Louisiana that  
22 are, as I understand it, marked into evidence.

23 I have also reviewed some general statistical  
24 data.

25 Q. What do you mean by general statistical data?

1           A. Department of Justice published data, data  
2           published by the Department of Homeland Security. That  
3           is generally it.

4           Q. And when you say you reviewed documents marked  
5           into evidence --

6           A. Actually to be -- let me correct.

7           Online. I didn't review any physical documents.  
8           Part of my job is to -- in my current position is I  
9           review a large number of published data that are  
10          provided by the Department of Homeland Security, the  
11          Department of Justice, and other places.

12                 MR. ST. JOHN: And just so that the record  
13           is clear, you reviewed documents online that were  
14           published by the Federal Government, Department of  
15           Justice, but then you were also provided some hardcopy  
16           documents that were produced in the litigation, Bates  
17           stamped. I think that's what you're referring to by in  
18           evidence.

19                 THE WITNESS: That's correct, Mr. St. John.  
20           BY MS. RYAN:

21           Q. Do you remember documents, the specific documents  
22           you reviewed that were produced during the litigation?

23           A. I do actually, yes.

24           Q. Could you tell me what documents you reviewed?

25           A. These were documents that were provided to me by

1 the State of Louisiana that are in evidence in this  
2 matter.

3 Q. Can you tell me specifically which documents you  
4 looked at?

5 A. Yeah, I looked at documents -- I looked at the  
6 documents. I looked at the complaint in this matter. I  
7 looked at -- re-reviewed my statement, which, of course,  
8 I'd seen already. I looked at documents that relate to  
9 the Louisiana Department of Health Medicare Program. I  
10 looked at documents that were provided by the Department  
11 of Education of Louisiana with respect to the school  
12 enrollment in the Minimum Foundation Program. I looked  
13 at documents that guide the issuance of means-tested  
14 public benefits. Temporary assistance to needy  
15 families, which in Louisiana is the family independence  
16 and temporary assistance program. And also SNAP, the  
17 Supplemental Nutrition Access Program, as well as  
18 background documents which I believe are in evidence in  
19 this matter.

20 Q. Okay. You mentioned your statement. Can you  
21 clarify what you meant by your statement that you  
22 reviewed?

23 A. That I submitted in this matter for this case.

24 Q. Your expert report?

25 A. That is correct, Counsel.

1 Q. Okay. You mentioned the complaint, so you have  
2 reviewed the current complaint in this matter?

3 A. I believe it's the current one, yes, Counsel.

4 Q. Okay. Did you review Louisiana's responses to  
5 defendant's request for production?

6 A. Yes, I did.

7 Q. And were you involved in finding documents  
8 responsive to those requests?

9 A. No, I was not.

10 Q. Did you review Louisiana's responses to  
11 defendant's interrogatories?

12 A. I don't believe that I did.

13 Q. And did you meet with the attorneys for the State  
14 of Louisiana prior to this deposition?

15 A. I did.

16 Q. Knowing that I'm not asking about the content of  
17 any of those meetings or conversations, how many times  
18 did you meet with the attorneys for the State of  
19 Louisiana?

20 A. The attorney for the State of Louisiana came up  
21 to Gastonia, North Carolina and met with me yesterday.  
22 I've also been involved with call -- on calls with  
23 Department of officials in which Mr. St. John was  
24 present, or online.

25 MS. RYAN: Mr. St. John, before we get into

1 more substance, can I just get a yes or a no whether you  
2 object to this deposition being held virtually?

3 MR. ST. JOHN: We will -- whether a  
4 deposition will be held virtually is a question of law,  
5 the rules are the rules. We'll comply with the rules,  
6 nothing more, nothing less. I mean, you chose a virtual  
7 deposition, I assume that you've complied with the  
8 rules.

9 MS. RYAN: So that's a yes.

10 MR. ST. JOHN: That's not what I said. I  
11 said the state will require strict adherence with the  
12 rules, nothing more, nothing less. That's been our  
13 consistent position for the entire case.

14 MS. RYAN: Do you have any reason to think  
15 that we do not comply with the rules for this  
16 deposition?

17 MR. ST. JOHN: Ms. Ryan, I'm not being  
18 deposed here today.

19 MS. RYAN: No, but we can't proceed. If  
20 you're -- if you're saying you don't consent to a  
21 virtual deposition then, you know, I'm not going to  
22 waste all of our time, so if you can't tell me that you  
23 like at the most basic level don't object to this  
24 deposition being held virtually then we might have an  
25 issue.

1 MR. ST. JOHN: Erin, I'm not -- the law  
2 either authorizes it or it doesn't, and I'm not going to  
3 comment on a legal issue. You've noticed a virtual  
4 deposition, that was your choice. You know, we are not  
5 stipulating to anything, I'll tell you straight up. The  
6 State is not stipulating to anything. You made your  
7 choice, our witness is available, you're on the clock,  
8 the witness will not be produced again, so if you want  
9 to proceed with the deposition feel free. The State is  
10 not stipulating to anything, though.

11 MS. RYAN: All right. Let's just take a  
12 moment.

13 (Recess was taken.)

14 MS. RYAN: All right. So Scott, if we're  
15 looking at the final rules, 30(b)(4) permits a remote  
16 deposition by stipulation or court order. If you're  
17 saying you do not stipulate you will not produce the  
18 witness again, then we need to call the court and make a  
19 motion, if it's what this takes, since we can't act like  
20 civilized adults and just agree to do a remote  
21 deposition.

22 MR. ST. JOHN: Well, are we on the record,  
23 Madame Court Reporter?

24 THE COURT REPORTER: Yes.

25 MR. ST. JOHN: Okay. One, the invective is

1 unnecessary, Counsel. The State does not appreciate  
2 being asked in the course of a deposition to make  
3 stipulations, that's not the way we operate. We will  
4 stipulate to a remote deposition, the conduct of a  
5 remote deposition per Rule 30(b)(4) for this deposition  
6 only, that is the only stipulation that the State will  
7 make.

8 MS. RYAN: I appreciate that. We -- if we  
9 have this issue for any future depositions we will raise  
10 it before. We note we informed you it will be remote  
11 weeks ago at your request since the witnesses were out  
12 of state for you, so for any future depositions we will  
13 e-mail you and work this out ahead of time.

14 MR. ST. JOHN: That statement is not  
15 entirely correct. I don't believe that the remote  
16 deposition was at our request, but as that may be,  
17 please proceed with the deposition.

18 BY MS. RYAN:

19 Q. Okay. Mr. Arthur, you're here today as a  
20 30(b)(6) witness for the State of Louisiana, correct?

21 A. That is correct, Counsel.

22 Q. Did you review the 30(b)(6) deposition notice  
23 that the defendant sent?

24 A. Yes, I did.

25 Q. I have a copy of it I can show you as well. I

1 know there are a lot of documents in this case so you  
2 may not have them all.

3 A. I got more documents than --

4 (Voices overlapping)

5 Q. All right. Let's see. Let me find the right  
6 document for you here.

7 Okay.

8 A. Do you have it, Counsel?

9 Q. Yes, just as is the case, we are having some  
10 technical issues.

11 Okay. Can you see that?

12 A. My screen is blank. Oh, there we go.

13 Q. Yeah, it might take a moment.

14 Okay. Did you review this document?

15 A. I am not sure if I've reviewed that document.

16 Q. Scrolling down this is the notice of 30(b)(6)  
17 deposition with Attachment A with the topics that you  
18 are set to testify about today.

19 MR. ST. JOHN: And Counsel, if you'll allow  
20 me to assist Mr. Arthur. I believe he was provided a  
21 copy of the responses and objections, so he's seen -- I  
22 believe he's seen the topics, but not this particular  
23 notice.

24 MS. RYAN: But he has seen the topics for  
25 his deposition today?

1 MR. ST. JOHN: Yes. I don't want to testify  
2 for you Arthur.

3 A. That is correct, I have seen the topics for the  
4 deposition today, Counsel.

5 BY MS. RYAN:

6 Q. Okay.

7 A. I believe there are 94 of them, is that correct?  
8 I don't know how many are for today's deposition.

9 MR. ST. JOHN: Mr. Arthur, that was the  
10 previous version.

11 Fair enough. I'll let you go.

12 BY MS. RYAN:

13 Q. So no, that was an old version of topics. This  
14 has 11 topics directed to the State of Louisiana, and  
15 then I believe 28 topics broken up between the programs  
16 that we're going to discuss today.

17 A. Very good, Counsel.

18 Q. Throughout this deposition notice there is a  
19 reference to the IFR. Are you familiar with the program  
20 that I'm referring to there?

21 A. Yes, Counsel.

22 Q. And what is your understanding of that program?

23 A. The IFR is the Interim Final Rule. It's also  
24 known as the Asylum Officer Rule. It changes the  
25 adjudicator of applications that are made by aliens who

1 are subject to expedited removal proceedings who have  
2 made credible fear claims. Pursuant to the IFR  
3 traditionally between 1996 and the issuance of the IFR  
4 in 2022, immigration judges in removal proceedings had  
5 jurisdiction over applications for asylum statutory  
6 withholding under Section 241(b)(3) of the INA and  
7 protection under the convention against torture for  
8 noncitizens who were encountered at the border in the  
9 ports of entry by U.S. Customs and Border Protection.

10 The IFR changed that to allow asylum officers who  
11 had actually conducted the credible fear interviews  
12 which is provided for in the statute Section 235(b)(1)  
13 of the INA, to conduct the asylum to actually perform a  
14 non-adversarial interview with which they would assess  
15 whether the noncitizen encountered by CBP at the border  
16 is eligible for asylum. If they're not eligible for  
17 asylum then to make a determination as to whether they  
18 would be eligible for statutory withholding under  
19 Section 241(b)(3) of the INA and for statutory  
20 withholding under the convention against torture. They  
21 would do that on an expedited basis. And that would  
22 then be passed over to the court. The court would have  
23 limited ability to make determinations with respect to  
24 the applications for withholding and reconsider the  
25 asylum application.

1           And by asylum application, I mean the application  
2           under Section 208 of the Immigration and Nationality  
3           Act. It also changed the rules -- or it changed the  
4           regulation with respect to parole for aliens who were  
5           pending a credible fear interview and for aliens who had  
6           received a positive fear credibility determination.

7           In addition, it also changed the regulations with  
8           respect to the ability of USC IS U.S. Citizenship and  
9           Immigration Services to reconsider a negative credible  
10          fear determination made by an asylum officer for which  
11          the noncitizen request review by an immigration judge  
12          that also received a negative creditability  
13          determination, again, after the negative credibility  
14          determination had been made.

15          Q. So if I refer to the IFR throughout this  
16          deposition you will understand that I'm referring to  
17          that Interim Final Rule or the Asylum Officer Rule that  
18          we just talked about?

19          A. That is correct, Counsel.

20          Can you give me the date of that Interim Final  
21          Rule.

22          Q. March 29th, 2022.

23          A. That's correct, March 29, 2022.

24          Q. I'm going to drop that 30(b)(6) notice into the  
25          chat, I think that'll probably be an easier way for you

1 to review it so that you don't have to wait for me to  
2 scroll.

3 So this is the 30(b)(6) deposition notice we just  
4 looked at, and I'd like to mark this as Exhibit A.

5 (Exhibit A is marked for identification.)

6 A. I don't see a chat on my -- I see more. Oh,  
7 chat, right there.

8 I don't have any documents in the chat.

9 MS. RYAN: St. John, did it show up for you?

10 MR. ST. JOHN: It did not.

11 MS. RYAN: Lovely. It said it showed up.

12 One more time, and if not, we'll go back to the -- still  
13 there.

14 A. Still not seeing it, Counsel.

15 BY MS. RYAN:

16 Q. Okay. I thought that would be easier, but if  
17 that's not going through for you then...

18 All right. So we'll go back. Please let me know  
19 if you can you see this, I'm sharing it back on my  
20 screen for you.

21 A. Yes, I can, Counsel.

22 Q. Okay. So I'll go back up to the top here and  
23 we'll scroll down. And I'd like you to please take a  
24 look at the topics.

25 A. You're going to need to go a little -- you're

1 going to need to go a little bit slower, Counsel.

2 Q. Yeah, I'm going up to the top and we'll start up  
3 here.

4 A. Very good.

5 Q. Okay. So as we go through these, please take a  
6 look at the topics, and let me know if you believe  
7 you're knowledgeable to speak on all of these topics.  
8 And if not, the ones that you lack information on.

9 A. You can keep going, Counsel.

10 I'm sorry, you're skipping over things. Let me  
11 see if I can go full screen on this.

12 Q. Sure.

13 A. You can keep going, Counsel.

14 Q. Okay.

15 A. Keep going. You can keep going, Counsel.

16 Q. So we just looked at the first 11 topics that are  
17 specific to the State of Louisiana. Do you believe  
18 you're knowledgeable to speak on all 11 of those topics?

19 A. I am, Counsel.

20 Q. Okay. We'll go to the specific agency topics.

21 These first 10 topics are specific to SNAP and  
22 TANF. Do you believe you're knowledgeable to testify  
23 about all of those topics?

24 A. Yes, Counsel.

25 Q. I'm stopping at topic 19. Those are the topics

1 for the Minimum Foundation Program.

2 Do you believe you're knowledgeable to testify  
3 about those topics?

4 A. Yes, Counsel.

5 Q. Okay. And the remaining topics are for the  
6 Medicaid program. Are you knowledgeable to testify on  
7 all of those topics?

8 A. I am, Counsel.

9 Q. Okay. Let me stop sharing.

10 So for those topics that you are knowledgeable,  
11 did you have the knowledge already prior to preparing  
12 for the deposition or did you obtain the information and  
13 knowledge specifically for the purposes of this  
14 deposition?

15 A. Some of the knowledge that I had in response to  
16 those questions was information that I obtained prior to  
17 this deposition. Some of it was gained through  
18 conversations that I have had with state agencies in the  
19 State of Louisiana that administered those programs,  
20 specifically the Louisiana Department of Health, the  
21 Louisiana Department of Children and Family Services,  
22 and with the Louisiana Department of Education.

23 Q. Are you currently employed by the State of  
24 Louisiana?

25 A. I am currently retained as an expert by the State

1 of Louisiana.

2 Q. But you are not employed by the State of  
3 Louisiana?

4 A. Except to the degree that I am retained as an  
5 expert witness for purposes of this litigation, I am not  
6 a employee of the State of Louisiana.

7 Q. And I believe you mentioned it before, but where  
8 are you currently employed?

9 A. I am employed by the Center for Immigration  
10 Studies, which is a nonpartisan nonprofit think tank in  
11 Washington, D.C.

12 Q. And what's your job title there?

13 A. I am the resident Fellow in Law and Policy.

14 Q. And you mentioned it, but you're also testifying  
15 as an expert witness in this case, correct?

16 A. That is correct, Counsel.

17 Q. But your testimony today will be in your capacity  
18 as a 30(b)(6) representative and not in your expert  
19 opinion?

20 A. Based on the expertise that I gained in order to  
21 prepare for this deposition it is in that position, yes.  
22 And I also find it very helpful for the other work that  
23 I do with my day job.

24 Q. Just making sure we have two different hats,  
25 right? Today's 30(b)(6) on behalf of the State of

1 Louisiana, your next deposition will be as an expert  
2 retained for your expert opinion?

3 A. Correct.

4 Q. Okay. So let's get started with the specific  
5 agencies.

6 So in this lawsuit Louisiana is alleging that  
7 they suffered injury to their Minimum Foundation  
8 Program, as a result of noncitizen students released  
9 under the IFR coming to Louisiana, correct?

10 A. That is correct.

11 MR. ST. JOHN: Objection.

12 I said objection calls for a legal  
13 conclusion. The allegations are in the complaint, it  
14 speaks for itself.

15 BY MS. RYAN:

16 Q. Can you repeat your answer, Mr. Arthur?

17 A. I defer to counsel for the State of Louisiana.

18 MR. ST. JOHN: Mr. Arthur, you can answer  
19 the question.

20 A. That is correct.

21 BY MS. RYAN:

22 Q. So throughout this deposition Mr. St John may  
23 make objections for the record, but unless he directs  
24 you not to answer you can answer the question.

25 A. Very good, Counsel. Thank you.

1 Q. What are those injuries that Louisiana claims its  
2 Minimum Foundation Program suffers as a result of the  
3 IFR?

4 A. So the State of Louisiana under the Louisiana  
5 constitution is required to provide for public education  
6 for the people of Louisiana. As the number of  
7 individuals who come into the State of Louisiana who are  
8 students increases, the cost of the State of Louisiana  
9 are going to increase. Louisiana does its school  
10 funding on an annual basis.

11 The Board of Elementary and Secondary Education  
12 prepares what it anticipates is going to be the amount  
13 of money that's going to be required to provide public  
14 education to the people of Louisiana in the next year.  
15 They actually do it in October, and then they reassess  
16 it in February. It is anticipated that the number of  
17 students who are enrolled will increase at more or less  
18 historic levels. If there is an increase in the number  
19 of students in the State of Louisiana who are going to  
20 be either beginning during the school year or beginning  
21 at the beginning of the next school year, that's going  
22 to reversely affect the State of Louisiana.

23 Louisiana also uses the Minimum Foundation  
24 Program in which it's been static for the last few  
25 years. The amount of money that its apportioned per

1 student is \$4,015.

2 However, there are increases that are made per  
3 student based upon the specific situation of the  
4 student. Economically disadvantaged students in the  
5 State of Louisiana count as .22 or 22 percent higher, so  
6 they're basically 1.22 students included under the  
7 economically disadvantaged or what are called English  
8 language learners under the MFP.

9 And you do understand what I mean when I say MFP,  
10 correct?

11 Q. Yes.

12 A. Okay. Thank you, Counsel.

13 And those who are unaccounted for -- if students  
14 move in who are English language learners, that would  
15 increase not just by one student but by 1.22 students.  
16 And there are certain parishes in Louisiana in which  
17 they have a large number of English language learner  
18 students, specifically Jefferson Parish has had to  
19 create what are called newcomer schools, which is they  
20 explain is for recent immigrants for whom English is not  
21 the first language and who may not have had the benefits  
22 of formal education.

23 The more individuals who enter under that, not  
24 only will it increase unexpectedly the amount of money  
25 that has to be apportioned, but it will actually

1 increase it by more than just one student.

2 There are 17 newcomer schools in Jefferson Parish  
3 or at least there were as of the 2019-2020 year.

4 I say there were because at the time that  
5 Jefferson Parish issued a press release about those  
6 newcomer schools they stated that 14 percent of the  
7 students in Jefferson Parish were English language  
8 learners. The most recent documents which I believe are  
9 for the 2022 -- 2021-2022 school year indicates that  
10 more than 19 percent of the students in Jefferson Parish  
11 are English language learners. And this is the affect  
12 that that has.

13 If in the middle -- like I said before, do an  
14 accounting in February for the next school year and then  
15 they reconsider it in October for the current school  
16 year.

17 If there is a shortfall of the funding that is  
18 provided again it's Constitution -- it's core function  
19 of the State of Louisiana to provide public education to  
20 the people of Louisiana.

21 The Board of Elementary and Secondary Education  
22 then has to go to the Legislature to ask for more money,  
23 and the Legislature considers that as a bill. If they  
24 refuse to fund that then it comes back to the board  
25 of -- BESE is what's called, Board of Elementary and

1 Secondary Education, for them to reconsider based upon  
2 any objections that the Legislature may have.

3 If the Board of Elementary and Secondary  
4 Education concurs with its assessment then it concludes  
5 that it was correct, the Legislature of the State of  
6 Louisiana is forced to fund that additional money.

7 Q. So we will talk about some of the budgeting  
8 processes, but that was a lot of information so I just  
9 want to synthesize that quickly.

10 So the injuries that Louisiana is claiming is  
11 more students means less money to go around per student,  
12 and more English language students increases the need  
13 for more funding, is that accurate to say?

14 A. It's actually the opposite of the last thing that  
15 you said. English language learner students impose a  
16 higher cost. But again, during that budgetary cycle  
17 it's possible that the Legislature of Louisiana would  
18 refuse to fund it, there would be a budgetary shortfall  
19 until that second BESE process takes place.

20 Let me just explain to you that the BESE is not  
21 actually part of the Attorney General's Office, they  
22 don't have a unitary executive in the State of  
23 Louisiana. The BESE is actually a panel of 11  
24 individuals, 8 of whom are elected, 3 of whom are  
25 appointed by the Governor, and the Governor does not

1 supervisor the Department of Justice in Louisiana.

2 Q. Any other injuries that Louisiana is claiming  
3 it's Minimum Foundation Program suffers as a result of  
4 the IFR?

5 A. It's possible that there could be increased class  
6 sizes. Needless to say, there's going to be lag time in  
7 the hiring of new teachers, particularly teachers who  
8 are qualified to be English language learner teachers,  
9 and so that would increase the class sizes in the State  
10 of Louisiana until that process can work itself out.

11 Q. So what is the Minimum Foundation Program?

12 A. The Minimum Foundation Program is the process by  
13 which the Louisiana Department of Education, the BESE,  
14 determined how much funding will go to schools in each  
15 individual parish. As I mentioned before, they  
16 generally come up with a amount of money that will be  
17 paid per student, per student. In Louisiana it's  
18 \$4,015. Currently it has been \$4,015 in prior years.

19 After that an assessment is made based upon  
20 statements that are made by the various schools about  
21 the number of differently advantaged individuals who  
22 will be in that school.

23 So again, economically disadvantaged children who  
24 are there will increase the amount of money that the  
25 school asked for. English language learners will

1 increase the amount of money that is asked for.

2 Gifted and talented programs will increase the  
3 amount of money that the schools will ask for.

4 And so all of that is compiled and a budgetary  
5 figure is reached that is then sent to the Legislature  
6 for them to apportion the money.

7 And this, as I mentioned before, this is a core  
8 function of the Louisiana Governor, it's included in the  
9 Louisiana Constitution that they provide that funding.

10 And so again, it goes through that Level 1  
11 assessment under the Minimum Foundation plan with  
12 respect to those children in different circumstances.  
13 There are also additional funding that's provided to  
14 school districts that have less than 7500 students, and  
15 then an assessment is made of where the next closest  
16 school is that those additional children can go to with  
17 respect to the funding for that school district.

18 There are three other levels, there's a Level 2,  
19 Level 3, Level 4 that go into things like hiring new  
20 teachers, hiring bilingual teachers, paying for  
21 pensions, and things like that.

22 Q. And we're going to go through all of that.

23 So the Minimum Foundation Program is administered  
24 by the Department of Education?

25 A. That is correct. And also overseen by the Board

1 of Elementary and Secondary Education, which as I  
2 mentioned before is consists of 11 members, some of them  
3 are elected, some of them are appointed.

4 Q. Let me show you a document I'm going to mark this  
5 as Exhibit B.

6 (Exhibit B was marked for identification.)

7 BY MS. RYAN:

8 Q. For the record, this is Bates stamped 3235  
9 through 3340. Do you see this on your screen,  
10 Mr. Arthur?

11 A. I do.

12 Q. Okay.

13 A. I could see the top of it.

14 Q. Yes. Okay. Have you ever seen this document  
15 before?

16 A. I am not sure that I've seen it. If you keep  
17 scrolling down I will tell you.

18 Q. Sure. So there's 106 pages so I won't scroll the  
19 whole thing, but let me know if this looks familiar to  
20 you or not.

21 A. Can you go back up real quick? I apologize.

22 Q. Sure. To the top?

23 A. No, not all the way to the top, I'll tell you  
24 when to stop.

25 I believe that I had seen that document before.

1 Q. Okay. So this is a Department of Education  
2 document --

3 A. I seen that in a different context. I may have  
4 seen that as the bill itself.

5 Q. Okay. So down here at the bottom it says this is  
6 the proposed budget supporting document for fiscal year  
7 2020 through 2021 for the Department of Education.  
8 Looking at the top here it mentions that there are six  
9 budget units within the Department of Education. What  
10 is a budget unit?

11 A. Budget units are the way that -- they are the  
12 individual activities for the Department of Education.

13 Q. Okay.

14 A. And the Minimum Foundation Program is one of  
15 them.

16 Q. That was going to be my next question.

17 So taking a looking at Bates No. 3301.

18 This is specific for the Minimum Foundation  
19 Program, and it lays out three goals for the program:  
20 Sufficient contribution of local dollars. The  
21 requirement of that 70 percent of each district's  
22 general fund to be directed to institutional activities.  
23 And the equitable distribution of state dollars,  
24 correct?

25 A. That is what the document says, yes, Counsel.

1 Q. Okay. So what is the sufficient contribution of  
2 local dollars?

3 A. So what they do, or what they do in Louisiana is  
4 there is an assessment of how much each of the school  
5 districts can pay, and that is based on local sales tax,  
6 local property tax, and other revenues that the state  
7 generates. In some of the school districts in Louisiana  
8 they're struggling simply to provide basic services to  
9 the people of Louisiana and they don't have the ability  
10 to get that money, so the whole idea behind the Minimum  
11 Foundation Program is that the State and the parishes or  
12 the school districts working together then will  
13 apportion the appropriate amount based upon the amount  
14 that the school district itself collects in revenue.

15 So if it's a poor school district, the state's  
16 going to pay more. If it's a school district that has  
17 higher -- that can make more sales tax revenue that can  
18 collect more on property taxes and that has higher other  
19 revenues that's balanced against the amount of money  
20 that they receive from the State of Louisiana, from the  
21 Louisiana Legislature.

22 Q. So it differs by school district?

23 A. It does.

24 Q. This also mentions a general fund. What is that  
25 referring to?

1           A. With respect to the general fund I'm going to  
2           conclude that in this particular situation that is the  
3           what I've referenced before, which is the local sales  
4           taxes, the local property taxes, and the other local  
5           revenues that they have.

6           Q. Okay. And how does the Minimum Foundation  
7           Program ensure that 70 percent of the funds are used as  
8           they direct?

9           A. Because they assess the amount of money that the  
10          school district has available to it through the sales  
11          taxes, local sales taxes, the local property taxes, and  
12          the other locality revenue that is available at the  
13          school district.

14          Q. And by instructional activities is that referring  
15          to the direct education of students or something else?

16          A. So instructional activities can include  
17          education, vocational training, and other activities in  
18          the State of Louisiana.

19          Q. Are the local funds the only source of funding  
20          that the schools receive for that purpose or do they  
21          also receive money from the state Legislature for  
22          instructional activities?

23                   MR. ST. JOHN: Objection. Beyond the scope.  
24                   You can answer.

25          A. I know that they receive money from the state

1 Legislature with respect to the balancing under the  
2 Minimum Foundation Program.

3 BY MS. RYAN:

4 Q. And then if we keep scrolling down we see budget  
5 summaries for fiscal year 2018, 2019, which is listed as  
6 prior year actuals. Enacted fiscal year 2019 to 2020,  
7 budget -- existing open budget as of 12/1/19, a  
8 continuation for fiscal year 2020 to 2021, and a  
9 recommended for that same fiscal year with a total  
10 recommended over or under.

11 Do you see those categories?

12 A. I do, Counsel.

13 Q. When a document refers to prior year actual  
14 versus enacted, what is the difference between those two  
15 columns?

16 MR. ST. JOHN: Objection. Beyond the scope.

17 Go ahead, Mr. Arthur.

18 A. This particular instance I'm not entirely sure.  
19 I'm not that familiar with budgeting having been a  
20 congressional staffer for a number of years, so I'm  
21 going to guess that the difference is unspent moneys  
22 that are returned to the general fund.

23 But again, that's just -- that is nothing that's  
24 within my expertise.

25 BY MS. RYAN:

1 Q. And if you don't know that's fine you can say  
2 that.

3 A. Okay.

4 Q. What does existing open budget mean?

5 MR. ST. JOHN: Objection. Beyond the scope.

6 A. I'm unaware of that. I could make a guess but I  
7 don't want to give you a guess.

8 BY MS. RYAN:

9 Q. I apologize. It says O-P-E-R, I guess my  
10 eyesight is going, I thought it says open, it refers to  
11 operating, just for the record.

12 And do you know what continuation means versus  
13 recommended?

14 MR. ST. JOHN: Objection. Beyond the scope.

15 The document speaks for itself.

16 A. I could make a guess with respect to that,  
17 Counsel, but it's outside of my expertise.

18 BY MS. RYAN:

19 Q. If we look down at the rows we see there's a  
20 general state -- excuse me. State general fund, what is  
21 that referring to?

22 A. That is the amount of money that goes into the  
23 state education, to the school districts.

24 Q. And then we see a number of subcategories which  
25 are all zero except for statutory dedications, do you

1 know what that is?

2 A. That is --

3 MR. ST. JOHN: Objection. Beyond the scope.  
4 The document speaks for itself.

5 You can answer.

6 A. That is, to the best of my knowledge, the amount  
7 of money that is paid by the State of Louisiana,  
8 although that -- those figures actually look a little  
9 low unless it's in thousands of dollars.

10 BY MS. RYAN:

11 Q. And so then down here we see a total --

12 A. Go ahead.

13 Q. Nope, go ahead, please finish your answer.

14 A. No, that's fine. Please proceed.

15 Q. So we see the state general fund direct, and the  
16 statutory dedications, which are added together for  
17 total means of financing, correct?

18 A. Correct, Counsel.

19 Q. Okay. So this budget summary is showing for  
20 fiscal year 2018 to 2019, and then fiscal year 2019 to  
21 2020, the amount actually went up, correct?

22 A. It did.

23 Q. When does the fiscal year start for Louisiana  
24 Department of Education?

25 MR. ST. JOHN: Objection. Beyond the scope.

1 A. I don't know.

2 MR. ST. JOHN: Calls for legal conclusion.

3 A. I -- i can tell you when the budgetary  
4 assessments are made.

5 BY MS. RYAN:

6 Q. When we're referring to recommendations, who is  
7 making that recommendation?

8 A. This would be the Department of Education.

9 Q. Recommending to the state Legislature how much  
10 money should be budgeted for the upcoming year?

11 A. Correct.

12 Q. If we then keep scrolling down we see the same  
13 numbers and the same total expenditures and requests,  
14 but then we see a section for authorized full-time  
15 equivalents, what does that mean?

16 MR. ST. JOHN: Objection. Beyond the scope.  
17 Document speaks for itself.

18 A. I'm unclear what that means in this context,  
19 Counsel.

20 BY MS. RYAN:

21 Q. Do you know what classified versus unclassified  
22 that we see here means?

23 MR. ST. JOHN: Objection. Beyond the scope.  
24 Question of law.

25 A. I do not.

1 BY MS. RYAN:

2 Q. Okay. All right. I'm going to show you another  
3 document which we will mark as Exhibit C. So this a  
4 Titled MFP presentation 2021 to 2022. There are no  
5 Bates numbers on this document.

6 (Exhibit C was marked for identification.)

7 BY MS. RYAN:

8 Q. Have you seen this document before?

9 A. You're going to have to go down. I apologize,  
10 Counsel.

11 Q. Looks like a PowerPoint. Let me know if this  
12 looks familiar.

13 A. It does look familiar, Counsel.

14 Q. Okay. What is this document?

15 A. That is a document that lays out, I believe it is  
16 a PowerPoint, it looks like a slide deck. I've seen a  
17 hardcopy of this document, it lays out the four levels  
18 of the Minimum Foundation Program formula.

19 Q. Who created this presentation?

20 A. The Louisiana Department of Education.

21 Q. For what purpose?

22 MR. ST. JOHN: Objection. Beyond the scope.

23 A. I have no idea why that was created, Counsel.

24 BY MS. RYAN:

25 Q. When was this document created?

1 MR. ST. JOHN: Objection. Beyond the scope.

2 A. It's not dated.

3 BY MS. RYAN:

4 Q. So as you said, this document discusses the  
5 formula used to determine funding for the Minimum  
6 Foundation Program, correct?

7 A. Yes. That's what I understand, Counsel, yes.

8 Q. Okay. Now you mentioned this before, the Board  
9 of Elementary and Secondary Education. Is that part of  
10 the Department of Education?

11 A. That is the --

12 MR. ST. JOHN: Objection. Question of law.

13 BY MS. RYAN:

14 Q. Go ahead, Mr. Arthur.

15 A. The Board of Elementary and Secondary Education  
16 is a board that is, again, three members are appointed  
17 by the Governor, three board -- three members are voted  
18 by the people of Louisiana to the board.

19 Q. Is it a board that oversees the Department of  
20 Education or is it within the Department of Education?

21 I'm just trying to get a sense of the structure  
22 of where it falls in relation to the Minimum Foundation  
23 Program.

24 MR. ST. JOHN: Objection. Question of law.

25 A. Yeah, with respect to that I know that it works

1 in conjunction with the Department of Education. I  
2 don't know whether it is under the aegis of the  
3 Department of Education, but I would conclude that it  
4 is.

5 BY MS. RYAN:

6 Q. Looking here on page 3, this is giving the cycle  
7 and timing of the budgetary formula. It mentions a task  
8 force, do you know what that's referring to?

9 A. That is the task force that reviews the ongoing  
10 activities of the number of students who are actually  
11 enrolled in the school during the year. As I mentioned  
12 before, assessment is made in October, assessment is  
13 made in February.

14 Q. And then the BESE submits its proposal to the  
15 Legislature who makes the ultimate decision of how much  
16 to fund for the upcoming school year, is that right?

17 MR. ST. JOHN: Objection. Question of law.  
18 Asked and answered.

19 You can answer, Mr. Arthur.

20 A. The document itself says in March that the BESE  
21 makes final decision on formula components and submits  
22 proposed formula and estimated cost to the Legislature  
23 in March.

24 BY MS. RYAN:

25 Q. But the Legislature makes the final decision

1 about the budget amounts?

2 A. It does, except as I mentioned before, if there  
3 is a shortfall the BESE then goes back to the  
4 Legislature, it is considered as a bill in the  
5 Legislature, and if the bill -- if the amount that the  
6 BESE asked for is not provided as supplemental funding  
7 it goes back to BESE, and then the BESE can send it back  
8 to the Legislature and the Legislature is forced to  
9 accept it.

10 Q. Now, this formula that we're talking about this  
11 is only for the Minimum Foundation Program, correct?

12 A. With respect to the formula, yes, Counsel.

13 Q. Okay. So looking at page 5 we'll briefly look at  
14 the different levels of the formula. So this is talking  
15 about Level 1, which determines the cost of education of  
16 each city and parish, and then determines the State's  
17 share for education funding, is that correct?

18 A. That's correct.

19 Q. And this is a projected cost of education?

20 A. Yeah, yeah, based upon the ability of the school  
21 district to pay.

22 Q. Okay. And we've talked about local funding,  
23 we've talked about the State's share, are there other  
24 sources of funding beyond that?

25 MR. ST. JOHN: Objection. It's beyond the

1 scope.

2 A. So again, they consider the local sales taxes,  
3 the local property taxes, and the local revenues that  
4 are available to the school district. There may be more  
5 than that.

6 BY MS. RYAN:

7 Q. So Level 1 they look at the base count and the  
8 weighted count which I know you discussed earlier?

9 A. Correct.

10 Q. Most students are a 1 unless they have some sort  
11 of category that gives them more weight than a single  
12 student, is that correct?

13 A. The base unit that they use is one, and then  
14 there is an apportionment based upon the factors that I  
15 discussed before.

16 Q. Okay. And you see here on page 7 some examples  
17 of weighted counts that would be used for those  
18 students.

19 And on page 8 and 9 we see specific examples, the  
20 first one being the economically disadvantaged weight  
21 which you had mentioned earlier.

22 There's no weighted category for immigrant  
23 students, is that correct?

24 MR. ST. JOHN: Objection. Question of law.

25 You can answer.

1           A. Under Plyler vs. Doe, all school aged students  
2 below the college level have to be provided an  
3 education. The Department of Education and the  
4 Department of Justice Civil Rights Division they've  
5 actually sent letters to the states informing them that  
6 they don't have the ability to inquire into the  
7 immigration status of individuals or parents of  
8 individuals who are registering for school in the  
9 states. And that includes asking for a social security  
10 number if one is not provided.

11           Q. So that's a no to my question?

12           A. I'm sorry, Counsel?

13           Q. My question was a simple factual question, is  
14 there a weighted category for immigrant students?

15           A. There is no way for the State of Louisiana to ask  
16 about the immigration status of school students, so for  
17 that reason there is not a weighted average. There is  
18 the English language learner percentage.

19           Q. Where do you see that? Because I see five  
20 categories: Economically disadvantaged. Career and  
21 technical education weight. Students with disability.  
22 Gifted and talented. And economy of scale weight.

23                   There is no category for English as a second  
24 language, is there?

25                   MR. ST. JOHN: Objection. This is a

1 question of law, but Mr. Arthur can testify.

2 A. English language learners are included under the  
3 economically disadvantaged weight. Economically  
4 disadvantaged also includes children from families that  
5 receive certain means-tested public benefits which  
6 includes Medicare, TANF, and SNAP.

7 BY MS. RYAN:

8 Q. How is economically disadvantaged determined?

9 MR. ST. JOHN: Objection. Calls for a --  
10 calls for testimony about a question of law.

11 Mr. Arthur, you can answer.

12 A. As I mentioned before, Counsel, and I apologize,  
13 if it didn't come through.

14 The economically disadvantaged is determined  
15 upon -- is based upon certain factors, the receipt of  
16 certain public benefits including Medicaid, TANF, and  
17 SNAP, and English language learners are included under  
18 that category.

19 BY MS. RYAN:

20 Q. Is that an automatic category that if a student  
21 needs English learning -- excuse me, English as a second  
22 language learning they're automatically lumped in with  
23 the economically disadvantaged students?

24 MR. ST. JOHN: Objection. Calls for  
25 testimony about a question of law.

1                   You can answer, Mr. Arthur.

2           A.   As I understand it, English language learners,  
3           from what I've been told by representatives of the State  
4           of Louisiana, the English language learners are included  
5           in the economically disadvantaged category.

6           BY MS. RYAN:

7           Q.   All right.   So going back to the formula.   Once  
8           the total count of students base and weighted are  
9           determined that is then multiplied by the amount per  
10          student which you mentioned previously, and that number  
11          is the first level of this formula, correct?

12          A.   That is correct, Counsel.

13          Q.   Okay.   The formula then looks at the local tax  
14          revenue, specifically the property tax and the sales  
15          tax, and that is factored at Level 1, correct?

16          A.   That is correct, Counsel.

17          Q.   So if someone buys property in or shops in a  
18          certain town or parish they're contributing to school  
19          funding?

20          A.   Yes, they are, Counsel.

21          Q.   Okay.   And if a city or a parish generates more  
22          tax revenue because people are spending more money in  
23          the stores or on property, then the less the State's  
24          portion will be for that parish, correct?

25          A.   Based upon the next assessment, yes, Counsel.

1 Q. Okay. Looking at page 15 which we're going to  
2 start talking about Level 2, this is talking about  
3 incentives for local school systems, and it mentions  
4 that some school systems are no longer eligible to  
5 receive this due to recent extraordinary growth in their  
6 local revenues. What is that referring to?

7 A. It's self-explanatory, Counsel, but I can explain  
8 it, if you'd like.

9 If a locality has seen an increase in, again,  
10 sales tax revenue, property tax revenue, or other  
11 revenues that they receive, then it's going to -- the  
12 local school district's share is going to increase in  
13 the next budgetary cycle, the state's contribution will  
14 decrease.

15 Q. What parishes are no longer eligible to receive  
16 this award because of their recent extraordinary growth?

17 MR. ST. JOHN: Objection. Beyond the scope  
18 and this is starting to steer close to what Judge Joseph  
19 warned about.

20 A. I'm not aware, Counsel.

21 BY MS. RYAN:

22 Q. All right. So then Level 3 is allocations  
23 requested by the Legislature for pay raises and benefits  
24 for staff, is that correct?

25 A. That is what it says, yes, Counsel.

1 Q. Okay. And then Level 4, it's funding for six  
2 specific programs which are discussed here on this slide  
3 page 17, and then page 18. And there are Level 4  
4 allocations for other types of schools such as charter  
5 schools, juvenile justice schools, and creative arts  
6 schools, correct?

7 A. That is correct. I believe that vocational  
8 schools also receive above for that. I think that's  
9 within the creative arts.

10 Q. Okay. I'm showing you another document we're  
11 going to mark as Exhibit D. This is titled MFP  
12 Resolution BESE Adopted Submitted 3/15/23.

13 (Exhibit D was marked for identification.)

14 BY MS. RYAN:

15 Q. Do you see that document on your screen?

16 A. I do, Counsel.

17 Q. Have you ever seen this document before?

18 A. I believe I have, but you're going to need to  
19 scroll down.

20 Q. Sure.

21 A. Yes, I have.

22 Q. Okay. For the record, there are no Bates numbers  
23 on this document.

24 Do you know who created this document?

25 MR. ST. JOHN: Objection. Beyond the scope.

1 A. I do not, Counsel.

2 BY MS. RYAN:

3 Q. But you would agree there's no header or date  
4 indicating when it was created, correct?

5 A. It is the Minimum Foundation Program formula for  
6 FY2023 to FY2024. Based upon the expertise that I've  
7 gained into the State of Louisiana I'm going to guess.  
8 I will posit that that was created for the fiscal year  
9 2023-2024 school cycle.

10 Q. Okay. So just looking at this first paragraph  
11 here, this document goes on, we see the levels that we  
12 just talked about, but this paragraph defines the  
13 schools that are included within the Minimum Foundation  
14 Program here, correct?

15 MR. ST. JOHN: Objection. The document  
16 speaks for itself.

17 A. That is what the document says, Counsel.

18 BY MS. RYAN:

19 Q. And this includes state universities as well, so  
20 the Minimum Foundation Program covers any type of  
21 student in Louisiana, K through 12 or college level, is  
22 that accurate?

23 MR. ST. JOHN: Objection. Beyond the scope.  
24 Calls for testimony about a question of law.

25 BY MS. RYAN:

1 Q. Go ahead, Mr. Arthur.

2 A. That appears to be what the document says, yes,  
3 Counsel.

4 Q. And if we scroll down here to the third page, and  
5 here we see what you were mentioning, the low income and  
6 English language learner weight grouped together.

7 English language learner, that means any student  
8 with a native language other than English, correct?

9 A. That is correct.

10 MR. ST. JOHN: Objection. Calls for  
11 testimony about a question of law.

12 BY MS. RYAN:

13 Q. Mr. Arthur, can you repeat your answer?

14 A. As I understand the way that the state defines  
15 English language learner, it is either students proving  
16 English is not the primary language or students with no  
17 proficiency in the English language.

18 Q. Let me stop sharing.

19 So when we're looking at the formula for the  
20 Minimum Foundation Program more students enrolled means  
21 the state has to provide more money for education, but  
22 less students they would have less money, is that an  
23 accurate way to sum it up?

24 A. Except for the fact that school systems under the  
25 Minimum Foundation Program that have fewer than 7500

1 students actually are apportioned differently.

2 Q. How many noncitizens released under the IFR are  
3 enrolled in schools covered by the Minimum Foundation  
4 Program?

5 A. As I mentioned before, Counsel, under the Supreme  
6 Court's 1982 decision in Plyler vs. Doe, the State of  
7 Louisiana is required to provide that primary and  
8 secondary education for all students seeking public  
9 education in the State of Louisiana.

10 The Department of Justice Civil Rights Division  
11 and the Department of Education have both under the  
12 Obama administration, as I understand, or under the  
13 Biden administration, they advised school districts that  
14 they can't inquire into the immigration status of the  
15 students or the parents of those students who are in  
16 that school district.

17 Moreover, under 8CFR Section 208.6 information  
18 relating -- which is a federal regulation.

19 The information relating to asylum applications  
20 and with respect to credible fear claims cannot be  
21 disclosed except under limited circumstances, this  
22 wouldn't be one of those limited circumstances that it  
23 would be allowed. This is information that would  
24 logically be within the possession of the Department of  
25 Homeland Security and the Department of Justice. It's

1 not information that would be within the possession of  
2 the State of Louisiana.

3 Q. You need a break or --

4 A. I'm good.

5 MS. RYAN: Okay. Scott, are you all set?  
6 Do you need a break?

7 MR. ST. JOHN: I'm okay. Let's keep going.

8 BY MS. RYAN:

9 Q. So just to be clear, just because a student does  
10 not speak English does not automatically mean they're an  
11 immigrant, correct?

12 A. That is correct.

13 Q. It doesn't mean --

14 A. I will note that the State of -- the State  
15 Department of Education has told me that it is a rough  
16 proxy for the, for noncitizens in certain school  
17 districts. It's not a one for one, but it's pretty  
18 close. It's a true proxy that can be used. But I'll  
19 also note that in Jefferson Parish schools they do have  
20 newcomer programs which are basically schools within  
21 schools which are specifically for immigrants who are  
22 not fluent in English and who may not have received the  
23 benefits of a formal education, and there are 17  
24 schools, 9 middle schools, 8 primary schools -- or 8  
25 secondary schools.

1 Q. So the Louisiana Department of Education you said  
2 uses English language students as a proxy for  
3 immigration students?

4 A. No, they don't. And let me be clear about that.

5 They agree to the fact that it could be a rough  
6 proxy for immigrant students, but I can tell you that in  
7 Jefferson Parish schools they do actually have those  
8 newcomer programs that are specifically tailored toward  
9 immigrants. As I mentioned before, the State of  
10 Louisiana doesn't have the ability to inquire into the  
11 immigration status of any of its students.

12 Q. Isn't French an important language in Louisiana?

13 MR. ST. JOHN: Objection. Beyond the scope.

14 BY MS. RYAN:

15 Q. Mr. Arthur?

16 A. With respect to French proficiency I believe that  
17 there is a small minority of individuals who speak a  
18 dialect of French, which is commonly referred to as  
19 Cajun, but it is a very limited majority of individuals  
20 who speak that as their primary language. In fact, I  
21 don't even know if today there is anyone who speaks  
22 Cajun as their sole language.

23 One of the things that I can tell you based upon  
24 my experience as an immigration judge is that American  
25 culture is pervasive and that English language fluency

1 is one of those things that most people who reside in  
2 the United States, even for a short period of time, can  
3 generally gain proficiency in.

4 Q. You said it was a small percentage of students  
5 but that French --

6 A. I'm not saying a small percentage of students.  
7 I'm saying that there a small population of students,  
8 from what I understand. This is nothing that I've been  
9 told. I've certainly never done any studies on the  
10 prevalence of Cajun speakers in Louisiana.

11 And to the best of my knowledge, I know that I  
12 never reviewed anything like that. I don't know that  
13 it's ever been captured, and I don't know if any  
14 assessment has ever been made of the number of people in  
15 Louisiana who'd speak French or some variation, Acadian  
16 French as their sole language.

17 Q. One second.

18 So just to --

19 A. And let me just clarify again, Counsel. With  
20 respect to the Jefferson Parish schools, they do not  
21 inquire, to the best of my knowledge, into the immigrant  
22 status of the people who are in the newcomer program,  
23 that is provided to the students and the parents, as  
24 well as an accommodation that is made by Jefferson  
25 Parish.

1 Q. Okay. So just to confirm. English language  
2 students are students with a native language other than  
3 English, it could be any language?

4 A. Who are not fluent in English as well.

5 Q. Beyond general education funding that we  
6 discussed, are there any other specific services  
7 provided by the Minimum Foundation Program?

8 A. The ones that we discussed before that they  
9 provide for pensions for certain bilingual teachers is  
10 another thing that is provided for under the Minimum  
11 Foundation Program. So yes, there are a number of  
12 things that are provided for.

13 Q. And that funding that ultimately comes out of the  
14 Minimum Foundation Program that is distributed to the  
15 schools covers all of their educational and operational  
16 costs, correct?

17 MR. ST. JOHN: Objection. I think that  
18 misstates his prior testimony, but okay.

19 A. Yes, it is. Although, I note that there are also  
20 contributions that are made by individuals which are  
21 reflected in the budgetary documents. Again, this is  
22 sort of much the same -- I don't want to say charitable  
23 contributions, but individuals do make contributions to  
24 the school districts.

25 MR. ST. JOHN: Counsel, I think he may have

1 misunderstood the question, can I clarify?

2 MS. RYAN: Yeah.

3 MR. ST. JOHN: Mr. Arthur, I think she's  
4 asking are -- is the Minimum Foundation Program the sole  
5 source of funding for the local schools, are the local  
6 schools also --

7 Is this what you're trying to get at?

8 MS. RYAN: Yes.

9 MR. ST. JOHN: Are the local schools also --  
10 Are the local schools also -- is there local  
11 funding for schools?

12 You have MFP funds and local funds, is that  
13 --

14 A. Yes. Right. So the local school district is  
15 obligated to provide based upon the assessment that is  
16 made by the Department of Education for the funding of  
17 the local schools. All of the funding for the schools  
18 does not come directly from the Legislature of the State  
19 of Louisiana, the local school districts are supposed to  
20 provide according to the revenues, tax, sales tax that  
21 they have available too.

22 BY MS. RYAN:

23 Q. Are there any services provided by the Minimum  
24 Foundation Program or educational services by the local  
25 schools that noncitizen or immigrant students would not

1 be eligible to receive?

2 MR. ST. JOHN: Objection. Beyond the scope.

3 A. The State -- the State of Louisiana doesn't  
4 inquire into the immigration status of the students.

5 Q. One second let me open up the next document.

6 MS. RYAN: Diane, I believe we're up to  
7 Exhibit E, is that correct?

8 THE COURT REPORTER: That is correct, yes.

9 (Exhibit E was marked for identification.)

10 BY MS. RYAN:

11 Q. Okay. Marking this as Exhibit E. This a  
12 spreadsheet entitled, FY2022 to 2023 Circular NO116 MFP  
13 Budget Letter May of 2023.

14 Do you see this document on your screen?

15 A. I do, Counsel.

16 Q. Okay. Have you ever seen this document before?

17 A. I believe that I have seen that document before,  
18 Counsel.

19 Q. Do you know who created this document?

20 MR. ST. JOHN: Objection. Beyond the scope.

21 A. I do not know. I believe it was the Department  
22 of Education.

23 BY MS. RYAN:

24 Q. And do you know what the purpose of this document  
25 is?

1 MR. ST. JOHN: Objection. Beyond the scope.

2 A. This appears to be the document that sets the  
3 state and local allocations with respect to the  
4 education under the MFP Levels 1, 2, and 3.

5 BY MS. RYAN:

6 Q. And I promise I'm not going to make you go  
7 through all these numbers, I just want to make sure I'm  
8 clear on what some of the columns mean.

9 So you see down at the bottom there are a number  
10 of different tabs. On this first tab we see a column as  
11 you said discussing Levels 1, 2, and 3, correct?

12 A. That's correct, Counsel. And I can't -- just to  
13 be clear, I can't see the entire document. I can see  
14 the top of the document and parts of the document over  
15 to something that says, "Minus state cost," and I can't  
16 read the rest, sorry.

17 Q. Yes, it's very long so I can -- we see minus  
18 state cost allocations to other public schools, and we  
19 see different schools underneath those as we scroll all  
20 the way to the right, and it continues on.

21 So we have that first column discussing Levels 1,  
22 2 and 3, and then it subtracts funding from local  
23 schools, and then we see Level 4 funds here at the end  
24 with a total column all the way over here to the right,  
25 is that correct?

1 A. That's correct, Counsel.

2 Q. Okay. If we look at this next tab, 2A-1 EFT  
3 Annual. Here we see a column discussing the total  
4 allocation minus the state cost to other public schools,  
5 plus or minus adjustments and adding total Level 4, is  
6 that right?

7 A. Correct, Counsel.

8 Q. Okay. So this number in this yellow column here  
9 should be the final number from the formula, correct?

10 A. There are four levels in the formula so that  
11 should be the final level.

12 Q. And then if you scroll to the right again we see  
13 it's subtracting local revenue due to other public  
14 schools. And all the way here at the end in green we  
15 see the total MFP payment minus local revenue due to  
16 other public schools, is that correct?

17 A. That's what it says, Counsel, yes.

18 Q. Okay. So this is the total payment that should  
19 be paid out and we see for the state total for the year  
20 2020 to 2023 it was 3.59 billion --

21 A. That is correct.

22 Q. -- is that right?

23 A. Yes.

24 Q. And this is annually for the entire year?

25 A. That is correct, Counsel.

1 Q. Okay.

2 A. As I mentioned before it's about 40 percent of  
3 the Louisiana state budget.

4 Q. Has the cost of educational services for the  
5 State of Louisiana changed since March of 2022?

6 A. Could you ask -- I apologize, Counsel, can you  
7 ask the question again?

8 Q. Sure. The total amount of educational services  
9 for the State of Louisiana has that changed in any way  
10 since March of 2022?

11 A. In the new budgetary cycle the most recent budget  
12 is actually higher.

13 Q. And do you know why it is higher?

14 MR. ST. JOHN: Objection. Beyond the scope.

15 A. I'm -- I would conclude that it's because more  
16 students and more weighted students are entering the  
17 school system.

18 BY MS. RYAN:

19 Q. Can you articulate any harm to the Minimum  
20 Foundation Program that is only attributable to the IFR?

21 A. Because the State of Louisiana doesn't have the  
22 ability to inquire into the citizenship status of the  
23 students in the schools, that would be a very difficult  
24 calculation to make.

25 However, the Department of Justice and the

1 Department of Homeland Security would actually have the  
2 ability to make that assessment based upon the number of  
3 students that they know are in the school district.

4 Q. But as you said --

5 A. The number of school districts in Louisiana.

6 Q. But as you said, the State of Louisiana doesn't  
7 know immigration status so they can't articulate harm  
8 directly attributable to the IFR?

9 A. Right. So with respect to the IFR there are a  
10 couple of different things that would pose or that would  
11 impose additional costs. Because under the IFR asylum  
12 can be granted more quickly and because the IFR allows  
13 for the parole of individuals pending credible fear  
14 reviews, the number of people who show up at the border  
15 and be released would increase.

16 In addition, it is my conclusion that the IFR  
17 itself would create a magnet that would bring additional  
18 individuals, foreign nationals to enter the United  
19 States and then become noncitizens in this country.  
20 Foreign nationals, by the way, for the record, refers to  
21 individuals who are not citizens or nationals of the  
22 United States.

23 Q. The testimony today is not your opinion, we're  
24 speaking in the position of the 30(b)(b) for the State  
25 of Louisiana.

1           So you said you think it will be an additional  
2           cost because of the parole pending, credible fear  
3           reviews, and fast asylum, but isn't it also true that  
4           non-meritorious asylum claims will be removed better  
5           because they're going through the process faster so that  
6           would alleviate potential costs to the State of  
7           Louisiana?

8           A.   Actually looking at the -- the rule as set forth  
9           in Section 235(b)(1) of the INA is that individuals who  
10          enter the United States who are inadmissible applicants  
11          for admission as determined upon in Section 235 of the  
12          INA are supposed to be detained, that would impose no  
13          cost on the State of Louisiana at all.   Because the IFR  
14          allows for the parole of those individuals it would  
15          be -- it would actually increase the number of people.  
16          That's one consequence.

17          Another consequence is because individuals would  
18          be -- would have their applications for asylum  
19          adjudicated, they would then be able to petition for  
20          immediate relative to follow and join them in -- follow  
21          to join them in the United States, and that includes  
22          children, including minor children of those individuals.

23          With -- so with respect to that, I believe that  
24          it would impose real asylum cost on the State of  
25          Louisiana's Department of Education and under the

1 projections made under the Minimum Foundation Program.

2 Q. The IFR isn't the only program that allows parole  
3 of noncitizens, is it?

4 A. The IFR changes the status for parole of  
5 noncitizens who are pending credible fear review.

6 Q. Mr. Arthur, but my question was it's not the only  
7 program that allows for parole, is it?

8 A. No. Congress actually permits parole under  
9 Section 212(d)(5)(a) of the INA for significant public  
10 benefit or urgent humanitarian reasons, but  
11 traditionally that has been interpreted with respect to  
12 urgent humanitarian reasons to being medical treatment  
13 with respect to significant public benefit for  
14 individuals to appear as witnesses or as defendants in  
15 criminal proceedings.

16 MS. RYAN: Why don't we take a ten-minute  
17 break, we've been going for a little while, so we'll  
18 come back on at 12:45.

19 Does that work, Mr. Arthur?

20 THE WITNESS: I'm happy to keep going if you  
21 want, Counsel.

22 MS. RYAN: Let's take a 10. I'll turn off  
23 my camera and mute, but we'll go off the record.

24 MR. ST. JOHN: Off the record.

25 (Recess was taken.)

1 BY MS. RYAN:

2 Q. One follow up question for you, Mr. Arthur before  
3 we move on to a different topic. You mentioned the  
4 newcomer schools in Jefferson Parish, what determines  
5 the eligibility for those schools?

6 MR. ST. JOHN: Objection. Beyond the scope.

7 A. The press release simply mentions the fact that  
8 Jefferson Parish offers those newcomer schools for  
9 recent immigrants for students who are not fluent in  
10 English and who have not had the benefits of a formal  
11 education that's offered. As I understand, as an  
12 amenity in the interest as equity, which is actually the  
13 term that they use to ensure the proper education of  
14 those children and that they're set to learn.

15 Q. Let's talk about SNAP, TANF. In this lawsuit  
16 Louisiana's alleging they suffered injury to those  
17 programs as a result of noncitizens released under the  
18 IFR coming to Louisiana, correct?

19 A. That is correct, Counsel.

20 Q. Okay. Briefly, what are those injuries that  
21 Louisiana claims to those programs as a result of the  
22 IFR? And we'll go into more detail so you don't have to  
23 feel like you have to give me all the details right now,  
24 but generally what are the injuries that it's alleging?

25 A. Okay. So SNAP, which is the supplemental

1 nutrition, that's SNAP, is a what used to be called food  
2 stamps, and it is supervised by the Louisiana Department  
3 of Children and Families, and it offers supplemental  
4 nutrition to individuals who are of limited means.

5 There are eligibility criteria for SNAP, however.  
6 It is available to residents of Louisiana, it is who are  
7 United States citizens and who meet the criteria under  
8 the program.

9 With respect to noncitizens, noncitizens are  
10 broken down into qualified noncitizens and nonqualified  
11 noncitizens. Certain qualified noncitizens, however,  
12 have to wait a period of time before they become  
13 eligible for those benefits, and those were under  
14 requirements that were implemented by The Personal  
15 Responsibility and Work Opportunity Reconciliation Act  
16 of 1996, so lawful permanent residents are what most  
17 people refer to as green card holders, have to wait five  
18 years or have accrued 40 work quarters before they're  
19 eligible, and that 40 work quarter part is, can be work  
20 that was done by a spouse or a parent where the child  
21 was not old enough to work.

22 Q. Mr. Arthur, I apologize, but just in the interest  
23 of time, my question was what is the injury being  
24 alleged, not what the program is about.

25 A. I'll get to that, Counsel.

1 With respect to qualified noncitizens there are  
2 individuals who are qualified noncitizens without that  
3 five year bar, and that includes individuals who have  
4 been granted asylum.

5 It also includes Cuban and Haitian entrants who  
6 have been paroled into the United States who have  
7 pending asylum applications. So with respect to the  
8 quicker adjudication of the asylum applications  
9 noncitizens generally who are granted asylum more  
10 quickly will be eligible for that SNAP benefit more  
11 quickly.

12 To the degree that they are Cuban and Haitian  
13 entrants, if they are paroled out of custody under the  
14 terms of the IFR, they also would become immediately  
15 eligible.

16 Particularly if they are paroled after they have  
17 gone through the credible fear determination, because  
18 under the IFR, and this is a break from the way that  
19 it's always been done in the past, traditionally in  
20 order for an individual to apply for asylum the  
21 individual had to file what's called a Form-I589  
22 application for asylum and for withholding of removal,  
23 under the IFR the signed copy of the credible fear  
24 determination, positive credible fear determination, is  
25 a application for asylum.

1 And, again, that's a break from traditional  
2 practice for as long as I know, and I've been doing this  
3 for 32 years.

4 Q. Okay. So --

5 A. So by --

6 Q. Let me ask the question please.

7 A. I apologize.

8 Q. So the injury being alleged is that they will be  
9 eligible for SNAP benefits faster under the IFR?

10 MR. ST. JOHN: Objection. I was going to  
11 say incomplete recitation of his testimony, asked and  
12 answered.

13 MS. RYAN: It's not asked and answered,  
14 actually, Scott, because he didn't answer the question  
15 directly.

16 BY MS. RYAN:

17 Q. So I'm just trying to summarize -- if I could  
18 just get a quick response, what is the injury being  
19 alleged?

20 MR. ST. JOHN: Counsel, he's entitled to  
21 answer the question. I was able to pick out the  
22 injuries that he recited. He gave you the explanation  
23 for why there are injuries and he's entitled to give the  
24 complete answer.

25 A. With respect to individuals who were granted

1       asylum more quickly they're going to become eligible for  
2       SNAP benefits more quickly.

3               With respect to Cuban and Haitians entrants,  
4       those individuals as soon as they pass the credible fear  
5       screening and receive a positive credible fear  
6       determination will have been deemed to have applied for  
7       asylum, and therefore will become eligible. If they're  
8       paroled from custody they're going to be eligible.

9       BY MS. RYAN:

10       Q. And what about for TANF, what injuries are  
11       alleged in regards to that program?

12       A. With respect to -- with respect to SNAP, the  
13       administrative cost of that program are born by the  
14       State of Louisiana -- or actually, split between the  
15       Federal Government, the United States Department of  
16       Agriculture, and the State. So the more people who are  
17       eligible for that, the more that the funding is going to  
18       go up, or the more that the cost of the State of  
19       Louisiana are going to go up. It's also going to draw  
20       upon the time of employees that the Department of  
21       Children and Family Services. DCFS and Louisiana is  
22       unfortunately one of those agencies that has trouble  
23       keeping employees, and so they have been -- you know,  
24       they are short staffed and that imposes a tangible  
25       impact on them.

1 With respect to TANF, Temporary Assistance to  
2 Needy Families, the program in Louisiana is called  
3 FITAP, which is Financial Independence Temporary  
4 Assistance Program. Again, that one is fully funded by  
5 the Federal Government including the administrative  
6 cost, but with respect to the employee time that is  
7 taken, again, those applications are adjudicated by  
8 employees of the, of the DCFS, and so it will take their  
9 time.

10 The government is actually, the State of  
11 Louisiana is reimbursed for the time for those  
12 individuals, but it takes them away from other  
13 activities.

14 In addition, with respect to the application --

15 Do you want me to go through the application  
16 process, because there actually will be cost there  
17 associated with that now?

18 Q. Not at this moment, we'll go through it.

19 A. Okay. Please remind me to come back to that  
20 because there are costs, because the interview process  
21 for individuals who weren't fluent in English is  
22 actually longer because they have to verify eligibility.

23 Q. Okay. So you said the FITAP program is fully  
24 funded by the Federal Government including  
25 administrative costs and they do get reimbursed for the

1 employee's time in going through those applications, is  
2 that correct?

3 A. True, but it also draws upon the availability of  
4 that individual to do other things. FITAP actually has  
5 another discrete affect on DCFS, because, again, it's  
6 fully funded by the Federal Government, except if the  
7 individual who receives FITAP isn't able to comply with  
8 the minimum work participation rate then the State of  
9 Louisiana can actually have funding taken away by the  
10 Federal Government, it's called WPR. And WPR requires  
11 50 percent of all families and 90 percent of all  
12 two-parent families to satisfy certain work  
13 requirements. It's 20 hours a week in conjunction with  
14 it can, you know, be training, it can be work, it can  
15 be, you know, other work that they do not for pay, but  
16 they have to do that.

17 So DCFS, which as I mentioned before, is a  
18 understaffed agency. If they have to spend more time  
19 adjudicating those applications and going through the  
20 process it's less time that they had to ensure  
21 compliance with the minimum work participation rate.

22 The Federal Government can take away 2 percent of  
23 the block grant per year up to 21 percent for states  
24 that are not in compliance with those minimum work  
25 participation rate levels.

1 Q. Now SNAP you mentioned also commonly referred to  
2 as food stamps but FITAP is cash assistance, correct?

3 A. FITAP is cash assistance. There's a company  
4 called INMAR that if you receive both, SNAP and TANF,  
5 will give you one card. That card actually has -- it's  
6 a credit card, basically, that could be used for SNAP or  
7 TANF. INMAR charges 42 million dollars per year. And  
8 again, half the cost of that INMAR program are born by  
9 the State of Louisiana.

10 Q. Looking just at SNAP, what are the eligibility  
11 requirements for SNAP in Louisiana?

12 A. They have --

13 MR. ST. JOHN: Objection. Best Evidence  
14 Rule. This is set forth in the document.

15 But you can testify, Mr. Arthur.

16 A. Right. They have to be residents of the State of  
17 Louisiana. They have to have certain -- they have to  
18 fall below a certain level based upon a formula for the  
19 receipt of the benefits to show that they're needy.

20 Again, these are means-tested public benefits,  
21 those are the -- that's what the means-tested part  
22 means.

23 BY MS. RYAN:

24 Q. I know that a person's immigration status plays a  
25 part in the eligibility. Are there any other

1 eligibility requirements based on things like age,  
2 gender, or nationality?

3 MR. ST. JOHN: Objection. Beyond the scope.

4 A. With respect to elderly individuals who are  
5 allowed to provide for themselves, there are. With  
6 respect to nationality I assume that you're using that  
7 in the -- in what sense, Counsel? I don't understand  
8 that word in this context.

9 Is there a need for a proxy for immigration  
10 status?

11 Q. No, if someone's immigration status is different  
12 than their nationality?

13 A. That's what I assume. Thank you for clarifying.

14 So with respect to nationality, no, there are no  
15 bars with respect to that.

16 Although certain individuals who are Asian,  
17 certain Hmong, Laotian individuals actually fall outside  
18 of the requirements. In addition, Iraqi and Afghani  
19 arrivals and Ukrainian individuals who have been paroled  
20 in under the Ukrainian parole program, so from that  
21 perspective, yes, there are actually nationality things.

22 Q. I think you mentioned this before, but --

23 A. Also, members of Indian tribes recognize the  
24 United States who are not United States citizens or  
25 nationals.

1 Q. So to clarify something you said before, certain  
2 immigration statuses are immediately eligible for SNAP,  
3 and some there is a wait period, and if the person was  
4 granted asylum they are immediately eligible, but if  
5 they are a parolee they have to wait five years,  
6 correct?

7 A. Except for Cuban and Haitian entrants.

8 There is -- there was a law that was passed in  
9 1980 with respect to Cuban and Haitian entrants that  
10 actually give them special consideration with respect to  
11 that if they've been paroled, if they been placed in  
12 removal proceedings if they've applied for asylum.

13 Q. Are you eligibility requirements for FITAP  
14 different than the eligibility requirements for SNAP?

15 MR. ST. JOHN: Objection. Best Evidence  
16 Rule. All of this -- all of the eligibility is set  
17 forth in written documents.

18 A. So there's a document that's issued by the State  
19 of Louisiana B220 SNAP and B220 FITAP, and the agencies  
20 follow the eligibility of requirements for those.

21 With respect to assessing the eligibility of  
22 those individuals, that's done through the SAVE system.  
23 There are two to three people that are employed by the  
24 Department of Child and Family Services that actually  
25 run those verification systems.

1           In addition, if an individual's received Medicaid  
2           under Louisiana Law and they received -- a button will  
3           appear when they apply for SNAP and FITAP that will  
4           allow the reviewer to populate the fields to assess the  
5           eligibility of that individual.

6           BY MS. RYAN:

7           Q.   What would make someone eligible for SNAP or  
8           FITAP but not the other?

9                       MR. ST. JOHN:   Objection.   Best Evidence  
10           Rule.

11           A.   With respect to the -- with respect to the  
12           immigration status of that individual?

13           BY MS. RYAN:

14           Q.   No, in general.   Because you mentioned if someone  
15           is enrolled in both, SNAP and FITAP, so that implies  
16           that someone could be enrolled in one or the other but  
17           not both, and so I'm asking why someone may be eligible  
18           for one program but not the other?

19                       MR. ST. JOHN:   Objection.   Best Evidence  
20           Rule.

21           A.   Because of the eligibility requirements for that  
22           and Louisiana does comply with the eligibility  
23           requirements for that as set out in the statute and  
24           regulation.

25           BY MS. RYAN:

1 Q. Can you articulate for me the difference in  
2 eligibility between those two programs that would make  
3 someone eligible for one and not the other?

4 MR. ST. JOHN: Objection. Best Evidence  
5 Rule. Beyond the scope.

6 A. It's based upon the income and the family size  
7 and the number of eligible individuals in the household  
8 for both.

9 And there are different things. Some people  
10 don't apply for both. In fact, there are about 440,000,  
11 I believe Louisianians who receive SNAP, which is a much  
12 larger number than the number of people who receive  
13 FITAP.

14 FITAP, by the way, I probably should have  
15 mentioned this before, is a block grant that is provided  
16 as 164 million dollars that is provided annually and  
17 that has remained static ever since in recent years and  
18 I believe going back to PRWORA, which is the Personal  
19 Responsibility -- as I mentioned before.

20 Q. And the --

21 A. Work Opportunity Reconciliation Act. I'm sorry.

22 Q. Sure. So the asylees being immediately eligible  
23 but parolees, except for Cuban and Haitians, have in 25  
24 years, does that also apply to FITAP?

25 A. Yes, it does.

1 MR. ST. JOHN: Objection. Best Evidence  
2 Rule.

3 A. And, Counsel, there's a document that I reviewed,  
4 which I believe is in the record, B220 SNAP, and B220  
5 FITAP and the agencies have assured me that they follow  
6 the eligibility requirements in those documents.

7 BY MS. RYAN:

8 Q. Is there a specific portion of the Department of  
9 Children and Family Services that's responsible for  
10 administering SNAP and FITAP?

11 A. There are separate employment trees that are  
12 eligible -- that have responsibility for SNAP and FITAP  
13 and I've spoken to individuals from both of those  
14 agencies.

15 Q. So they're separate, one is for SNAP and one is  
16 for FITAP?

17 A. But they're both under DCFS.

18 Q. But that's a yes, they are separate?

19 A. They are separate, yes, Counsel.

20 Q. Does -- is the State of Louisiana alleging injury  
21 to any other portion of the Department of Children and  
22 Families besides those two employment trees you just  
23 mentioned?

24 MR. ST. JOHN: Asked and answered.

25 A. Not that I'm aware of.

1 BY MS. RYAN:

2 Q. How many noncitizens released under the IFR are  
3 enrolled in the SNAP program in Louisiana?

4 A. As I mentioned before, 8CFR 208.6 actually limits  
5 the disclosure of information related to an individual  
6 who has applied for asylum or has gone through a  
7 credible fear review provision.

8 This is a -- so consequently the only thing that  
9 the State of Louisiana is going to know is that an  
10 individual has applied for asylum or has been paroled  
11 into the United States with respect to the eligibility  
12 for those people. That would be information that would  
13 be within the knowledge of the Department of Justice and  
14 the Department of Homeland Security.

15 Q. But they don't know under what program or policy  
16 that person was paroled or granted asylum?

17 A. No, under the policy that is followed by the  
18 State of Louisiana they don't inquire into which of  
19 those things. The eligibility is a federal matter  
20 rolled into state law and they comply with those  
21 requirements.

22 Q. How many noncitizens released under the IFR are  
23 enrolled in the FITAP program in Louisiana?

24 A. Again, as I mentioned before, 8CFR 208.6 is a  
25 confidentiality provision. There's a separate

1 confidentiality provision 8CFR 1208.6, they mirror one  
2 another, and they bar the disclosure of information  
3 relating to asylum applicants, any information that the  
4 asylum applicant provides, or with respect to credible  
5 fear determinations, so that would be information that  
6 would be known to the federal but not for the State of  
7 Louisiana.

8 Q. I'm going to show a document, I believe we're up  
9 to Exhibit F.

10 THE COURT REPORTER: That's correct.

11 (Exhibit F was marked for identification.)

12 MS. RYAN: If I start jumping around the  
13 alphabet, please let me know.

14 BY MS. RYAN:

15 Q. Do you see this document on your screen?

16 A. I've got a blank screen.

17 Q. Okay. One second.

18 A. Yes, ma'am, I do.

19 Q. Okay. So this is a spreadsheet entitled Asylee  
20 Issuance Amount with no Bates number.

21 Have you seen this document before?

22 A. I believe that I've seen that document before.

23 Q. And for the record, there's no Bates number but  
24 it was produced to defendants on July 27, 2023.

25 What is this document?

1           A. That is the document that was prepared at the  
2           request of the Attorney General's Office of the  
3           Department -- of the Department of Justice of Louisiana  
4           of DCFS to determine the number of asylees who have  
5           received SNAP, which unfortunately this is an old  
6           computer code it shows up as FS for food stamps. And  
7           then I believe there is -- there are individuals who  
8           show up as TF, I think is the code that they use for  
9           TANF.

10          Q. Those were going to be some of my questions, so  
11          thank you.

12                 Can you explain -- all right. So you explained  
13          this.

14                 Let me see if I have any --

15                 So are these case numbers for the Department of  
16          Children and Family Services?

17           A. The individual ID number, as I understand, are --  
18           they are individual numbers that relate to the  
19           individual. I believe the case number -- the individual  
20           ID number is the one that is used by DCFS to keep track  
21           of them and the case number is the individual case.

22                 So yes, these numbers are -- they match one  
23           another. They match a specific individual in separate  
24           systems.

25          Q. Okay. So we see just for this first entry here,

1 the same case number repeated, the same individual ID  
2 repeated, but with different payment amounts and  
3 different payment dates, is that correct?

4 A. That is correct, Counsel.

5 Q. Okay. So these would be different payments to  
6 this individual with this ID number?

7 A. As I understand the document. I didn't run the,  
8 the document itself.

9 Q. Okay. And you said these are for asylees  
10 generally?

11 A. This is the asylee issuance amount, yes.

12 Q. But that is not specific to asylees released  
13 under the IFR?

14 A. There's no way for the State of Louisiana to know  
15 which individuals were released under the IFR because it  
16 doesn't differentiate with respect to the documents.

17 Louisiana doesn't request specific documents.  
18 They request specific documents, but that can include a  
19 employment code on a employment authorization document.  
20 It can include a stamped version of a judge's order  
21 granting asylum, so there's no way for the State of  
22 Louisiana to know that. And they verify that through  
23 the SAVE system.

24 Q. When somebody is eligible for SNAP you've  
25 mentioned food assistance or you've mentioned like a

1 payment card, but what services does someone receive  
2 when they are determined to be eligible for SNAP?

3 A. So they receive the payment card for SNAP, which  
4 as I noted is produced by a company called INMAR, which  
5 is a state contractor.

6 Q. And does that payment card function like a credit  
7 card?

8 A. You can use it -- it functions more or less as a  
9 credit card. EBT is the actual term that's used,  
10 Electronic Benefit Transfer.

11 Q. And is that the same for the FITAP program they  
12 get a payment card?

13 A. Yes, it is. And, again, if they receive both  
14 then they get one card.

15 Q. Are there any services within the SNAP or FITAP  
16 program that only noncitizens are eligible for?

17 A. Not that I'm aware of. The one service that  
18 would be provided to a noncitizen would be the  
19 interpreter services through the course of the  
20 verification process for eligibility.

21 Q. Are there any services within SNAP and FITAP that  
22 a noncitizen would not be eligible for?

23 A. It all depends on the status of the noncitizen.  
24 If it's a nonqualified noncitizen or a qualified  
25 noncitizen subject to a bar, they wouldn't be eligible

1 for either.

2 But again, with respect to -- excuse me. So long  
3 as they are qualified noncitizens it's based upon the  
4 formulas that are in place for each of the programs.

5 Q. Are there any services that were added because of  
6 noncitizens using the SNAP or FITAP programs?

7 A. I believe with respect to the interpreter  
8 services I assume that that's probably been something  
9 that has been in place for a number of years. And  
10 again, they have to do the special level of eligibility  
11 to verify the eligibility of the individual for the  
12 individual benefit.

13 Q. But the interpreter is for anyone who needs help  
14 with the English language, not necessarily only  
15 noncitizens?

16 A. That is correct.

17 Q. And they would have to verify the citizenship of  
18 anyone applying, not just noncitizens?

19 A. Right. So, again, there are two to three people  
20 who do the verification for the, for individuals who  
21 identify as noncitizens. There are two to three of them  
22 that are employed by DCFS and they run it through the  
23 Systematic Alien Verification for Entitlement system,  
24 which is also known as SAVE.

25 Q. I'm going to show you what we're marking as

1 Exhibit F.

2 MS. RYAN: And, Counsel, I will email the  
3 PDFs of all of these after the deposition as well.

4 THE COURT REPORTER: One moment. I think we  
5 just marked F, so you're up to G.

6 MS. RYAN: Oh, thank you, Diane.

7 THE COURT REPORTER: You're welcome.

8 MS. RYAN: I spoke too soon earlier about my  
9 alphabet skills.

10 (Exhibit G was marked for identification.)

11 BY MS. RYAN:

12 Q. Let me know when you can see that on your screen.

13 A. I can see that, Counsel.

14 Q. Okay. I'm showing you Bates numbers 3588 through  
15 35 -- 3825, which is entitled, House Bill No. 1, for  
16 2021.

17 Have you seen this document before?

18 A. I have seen that document before.

19 Q. What is this?

20 A. House Bill 1 is the funding bill that is done  
21 biannually by the Louisiana Legislature with respect to  
22 the funding of the state government throughout the year,  
23 throughout the two-year period.

24 Q. Okay. So this would be appropriations for a  
25 number of different offices and departments within the

1 State of Louisiana?

2 A. That is correct, Counsel.

3 Q. Okay. Jumping ahead to page 112. Halfway down  
4 the page we see, Schedule 10: Department of Children  
5 and Family Services. Do you see that?

6 A. I do, Counsel.

7 Q. Okay. So this is laying out different  
8 expenditures for the Department of Children and  
9 Families, and we saw these budgeting terms before, but  
10 for the record I'll just ask you, what is the difference  
11 between EOB and REC that we see here?

12 MR. ST. JOHN: Objection. This is literally  
13 what the subject of Judge Joseph's caution was.

14 MS. RYAN: Your objection's been noted.

15 BY MS. RYAN:

16 Q. You can go ahead, Mr. Arthur, if you know.

17 A. I'm not familiar with what those terms are.

18 Q. Okay. Are these requests made by the department  
19 to the Legislature or are these the actual amounts that  
20 are provided by the Legislature to the department?

21 A. The bill is premised upon requests that are made  
22 by the individual departments for funding for the  
23 two-year period under HB1.

24 Q. So this is the actual amount that was paid but  
25 that amount is based on requests that had been

1 previously made by the departments?

2 A. That is correct.

3 MR. ST. JOHN: Objection.

4 A. I believe.

5 BY MS. RYAN:

6 Q. Okay. And then we see these expenditures are  
7 broken up by different divisions within the department:  
8 We have the Division of Management and Finance. The  
9 Division of Child Welfare. The Division of Family  
10 Support. And under Division for Family Support we see  
11 references to FITAP and SNAP, correct?

12 A. That's correct, Counsel.

13 Q. Okay. Here we see authorized positions, do you  
14 know what that's referring to?

15 A. The number of individuals who are authorized to  
16 be employed, that's -- its a common budgeting term.

17 Q. And under that we see nondiscretionary and  
18 discretionary, do you know what the difference between  
19 that is?

20 A. With respect to nondiscretionary, discretionary  
21 expenditures, I would posit that the nondiscretionary  
22 expenditures are ones that are required to be paid based  
23 upon previous obligations.

24 The discretionary expenditures would be  
25 non-obligated expenditures that they would have to make.

1 Q. Okay. So if you go down here. Let me stop  
2 sharing my screen.

3 So the Department of Children and Families  
4 request a specific amount specifically for the SNAP and  
5 FITAP programs, correct?

6 A. With respect to the individuals who would  
7 administer those programs.

8 Q. So it's for personnel funds?

9 A. Right.

10 MR. ST. JOHN: Objection. Objection. This  
11 is literally a bill. It's a legal document, it speaks  
12 entirely for itself.

13 MS. RYAN: We're past the bill, Mr. St.  
14 John.

15 BY MS. RYAN:

16 Q. But go ahead, Mr. Arthur.

17 A. With respect to FITAP, again, that is funded out  
18 of a block grant that is provided by the Federal  
19 Government with respect to SNAP. The administrative  
20 cost of the administrative program are split between the  
21 State of Louisiana and the Federal Government.

22 Q. How does the department determine how much money  
23 it needs to request?

24 A. Based upon historical standards that they've had,  
25 and anticipated needs.

1 Q. Do they request a flat amount or is it per  
2 person?

3 A. Per person, employee, beneficiary.

4 Q. Let me -- yeah, so let me break that for you.

5 So does the number of people enrolled in the  
6 programs affect how much money they request from the  
7 Legislature?

8 A. Based upon the statement that I made before with  
9 respect to the administration of the SNAP program, it  
10 would be the number of employees that they would need  
11 with the amount of money that they received, that they  
12 split with the federal with respect to SNAP.

13 With respect to FITAP those administrative costs  
14 should be covered. But again, there's the employee time  
15 part.

16 Q. So you mentioned the FITAP federal funding. Does  
17 the Federal Government provide funding for SNAP  
18 benefits?

19 A. It does. That is through the United States  
20 Department of Agriculture. The administrative costs are  
21 split.

22 Q. And is that money provided proactively for the  
23 upcoming fiscal year or retroactively based on the  
24 amount actually spent in the previous fiscal year?

25 MR. ST. JOHN: Objection. Beyond the scope.

1           A. With respect to FITAP, the State of Louisiana  
2 receives a block rate, it's been 164 million dollars for  
3 a number of years.

4           With respect to SNAP, I believe that those are  
5 projections that are made with direct billing back to  
6 the Federal Government or with respect to the  
7 administrative costs.

8 BY MS. RYAN:

9           Q. Does the federal funding for SNAP impact the  
10 state budget allocated to the SNAP program?

11          A. I'm sorry, could you ask the question again?

12          Q. Sure. Does the federal funding provided for the  
13 SNAP program impact the state funding that's provided  
14 for the SNAP program?

15          A. To the degree that the state has to pay its share  
16 of the administrative cost, yes.

17          Q. But only for those administrative costs, meaning  
18 the employee's salary?

19          A. And also INMAR. Again, it's a 42 million dollar  
20 contract that the state has with INMAR to actually  
21 provide that benefit, and there were other  
22 administrative costs that are included.

23          Q. But the actual money given to the enrollees comes  
24 from the Federal Government?

25          A. It does, through the United States Department of

1 Agriculture.

2 Q. Has the cost of administering SNAP or FITAP  
3 programs changed since March of 2022?

4 A. With respect to that it's going to be reflected  
5 in the budget. And, again, it's a two-year budget, one  
6 was done in 2021, one was done in 2023, and I believe  
7 the funding has increased to those agencies over that  
8 period of time.

9 Q. Has the federal funding that the State of  
10 Louisiana received for SNAP and FITAP changed since  
11 March of 2022?

12 A. With respect to FITAP it hasn't changed. With  
13 respect to SNAP I would need to take a look at the  
14 budget documents to see the change for that.

15 Q. Can you articulate any specific harm to Louisiana  
16 SNAP or FITAP programs that is only attributable to the  
17 IFR?

18 A. As I mentioned before, and I may have packaged  
19 this up in a response or something that I said before,  
20 by making the individuals eligible for asylum and by  
21 paroling in Cuban and Haitian enrollees, it will  
22 actually increase the administrative cost with respect  
23 to SNAP that they would have to share.

24 In addition, again this is an underfunded state  
25 agency or understaffed state agency, so it will draw

1 upon the limited time of the employees that are  
2 currently employed by DCFS.

3 Q. Let's -- just one moment.

4 (Recess was taken.)

5 BY MS. RYAN:

6 Q. You mentioned INMAR as the -- that's the type of  
7 credit card that the state uses to provide its benefits  
8 for SNAP and FITAP, correct?

9 A. That's the name of the contractor.

10 Q. Okay. Does Louisiana pay to license that  
11 technology or is it a per user amount that you need to  
12 pay for everyone who gets an INMAR card?

13 MR. ST. JOHN: Objection. Beyond the scope.

14 A. To the best of my knowledge, the contract with  
15 INMAR is a flat fee. There is a fee that they pay based  
16 upon reconsideration for the term of the contract.

17 BY MS. RYAN:

18 Q. Okay. Turning to Medicaid.

19 So in this lawsuit Louisiana is alleging that  
20 they suffered injury to their Medicaid program as a  
21 result of noncitizens released under the IFR coming to  
22 Louisiana, correct?

23 A. That's correct, Counsel.

24 Q. Can you summarize what are the injuries that  
25 Louisiana is claiming to its Medicaid program as a

1 result of the IFR?

2 A. With respect to Medicaid as with SNAP, and TANF,  
3 or FITAP, United States citizens and nationals are  
4 eligible for Medicaid assuming that they meet the  
5 residency and qualification standards. There is an  
6 exception for what's called emergency Medicaid for  
7 individuals who need emergency medical care.

8 The -- with respect to noncitizens -- there are  
9 qualified noncitizens and there are non --

10 Or there are nonqualified noncitizens and then  
11 there are qualified citizens who are subject to a bar,  
12 to a five year bar, again, similar to the ones that  
13 apply to SNAP and TANF.

14 Individuals who have been -- who are qualified  
15 noncitizens who have green cards or fall within other  
16 categories have to wait five years before they're  
17 eligible for the benefits.

18 With respect to other noncitizens, including  
19 asylees and Cuban and Haitian entrants, they are  
20 eligible for those benefits as soon as they attain those  
21 statuses. So the more quickly that a applicant, an  
22 alien applicant receives the benefit the more quickly  
23 they're going to be eligible to draw upon the Medicaid  
24 program.

25 Same is true with respect to the release of Cuban

1 and Haitian entrants either on parole or, which again is  
2 impacted by the IFR, or the filing of the asylum  
3 application, which again is going to also be impacted by  
4 the change by the waiving of the I-589 Rule in the IFR.

5 Q. What are the different types of Medicaid programs  
6 that the State of Louisiana offers?

7 A. So they offer emergency Medicaid, which I  
8 referenced before. They also reference -- they also  
9 offer CHIP, the Children's Health Insurance Program.

10 In fact, they offer expanded CHIP for certain  
11 nonqualified, non -- or for certain qualified  
12 noncitizens not subject to the bar.

13 Emergency -- there's also CHIP Level 4, which is  
14 something that's available to pregnant women.

15 Q. So there's regular expansion, CHIP, and  
16 emergency?

17 A. Yes. And then there's also a Affordable Care Act  
18 one that is an expanded Medicare program.

19 Q. And which portions of those -- strike that.

20 Which portions of the Medicaid program is  
21 Louisiana claiming injury to as a result of the IFR?

22 A. With respect to regular Medicaid, with respect to  
23 expanded Medicaid, and with respect to the CHIP program.

24 Again, if an individual receives asylum status  
25 they are eligible to petition under Section 2A, the INA,

1 for their children to follow to join they will come to  
2 the United States as well. And the more quickly that  
3 that asylum is granted, the more quickly they can  
4 petition for those children to come to the United  
5 States.

6 Q. What are the conditions of eligibility for  
7 regular Medicaid?

8 A. With respect to --

9 MR. ST. JOHN: Objection. Best Evidence  
10 Rule. There is a -- there is a written policy.

11 You can answer.

12 A. Yeah, there are federal requirements for  
13 eligibility for Medicaid based upon the size of the  
14 household and the income of the household.

15 BY MS. RYAN:

16 Q. For regular Medicaid does it look at the  
17 immigration status of the individual?

18 A. It does with respect to differentiating between  
19 qualified and nonqualified. Or qualified and  
20 nonqualified noncitizens, and also qualified noncitizens  
21 subject to the bar.

22 Q. Are asylum seekers qualified or nonqualified for  
23 Medicaid?

24 MR. ST. JOHN: Objection. Best Rule  
25 Evidence.

1                   You can answer.

2           A.   If they are Cuban or Haitian entrants then they  
3 immediately become qualified for Medicaid.

4 BY MS. RYAN:

5           Q.   And if they're not?

6           A.   If they're not Cuban and Haitian entrants?

7                   All with respect to that, again, there is the --  
8 there is an Afghani, Iraqi provision, there is a  
9 Ukrainian provision, but with respect to all other  
10 individuals they are subject to the five year bar until  
11 they're granted asylum.

12           Q.   And once they're granted asylum they are  
13 automatically qualified?

14           A.   Once --

15                   MR. ST. JOHN:  Objection.  Best Evidence  
16 Rule.

17           A.   Once they're granted asylum they're automatically  
18 eligible.

19 BY MS. RYAN:

20           Q.   And what about parolees, are they qualified or  
21 nonqualified?

22                   MR. ST. JOHN:  Objection.  Best Evidence  
23 Rule.

24           A.   Parolees are qualified noncitizens provided that  
25 they've been paroled for a year or more, subject to the

1 five year bar. And, of course, the Cuban and Haitian  
2 parolees, as I mentioned before.

3 BY MS. RYAN:

4 Q. Right. But if they're not of a specific  
5 nationality that is excluded from the five year bar  
6 parolees are eligible after a five year wait if their  
7 parole is for one year or longer?

8 MR. ST. JOHN: Objection. Best Evidence  
9 Rule. Calls for testimony about a question of law.

10 You can answer.

11 A. The State of Louisiana follows the standards that  
12 are set forth in a document issued by the Department of  
13 Health. The I-300, it's I-300, that's it, and they  
14 complied with those requirements with respect to  
15 qualified and nonqualified noncitizens.

16 Again, with the exception of CHIP, but you  
17 haven't asked me about CHIP, we can talk about that.

18 Q. Yes, we'll get there.

19 The conditions of eligibility for expansion  
20 Medicaid, are they the same or different than for  
21 regular Medicaid?

22 MR. ST. JOHN: Same objection.

23 A. Yeah, the State of Louisiana follows the ACA with  
24 respect to eligibility for expanded Medicaid. But with  
25 respect to eligibility, again, the same eligibility

1 standards apply.

2 BY MS. RYAN:

3 Q. So you said they follow the rules, but my  
4 question is, is it the same eligibility for regular  
5 Medicaid and expansion Medicaid, or are they different?

6 A. Well --

7 MR. ST. JOHN: Same objection.

8 Give me a potato before you start answering,  
9 okay? Just so we can make sure we get the objection in.

10 A. With respect to the income standards they are  
11 lower between expanded Medicaid and regular Medicaid.  
12 But again, they're all set forth in federal statute.

13 BY MS. RYAN:

14 Q. And what are the conditions of eligibility for  
15 CHIP?

16 MR. ST. JOHN: Same objection.

17 A. With respect to CHIP, CHIP is administered for  
18 children under the age of 19, except for CHIP Level 4,  
19 which applies to pregnant women. And again, those are  
20 all set forth in the Federal Law with respect to the  
21 eligibility for it.

22 BY MS. RYAN:

23 Q. And does the immigration status impact  
24 eligibility for CHIP like it does for regular and  
25 expansion Medicaid?

1 MR. ST. JOHN: Objection. Best Evidence  
2 Rule. Calls for testimony about a question of law.

3 You can answer.

4 A. With respect to CHIP, Louisiana has expanded CHIP  
5 eligibility for noncitizens who are 19 and younger under  
6 certain circumstances, including that they are  
7 applicants for asylum.

8 BY MS. RYAN:

9 Q. How are the income requirements verified?

10 A. Based upon the representations of the individuals  
11 who are applying and they have to provide documents that  
12 verify those eligibility requirements.

13 Q. Do they also have to provide documents of their  
14 immigration status to be verified?

15 A. If they are -- everybody has to provide some sort  
16 of document to show that they fit, either that they're a  
17 United States citizen or that they're a United States  
18 national under Section 308 of the INA. If they are an  
19 alien not able to provide that information, then they  
20 have to provide proof of their qualified status.

21 Emergency Medicaid is available to individuals who are  
22 unauthorized noncitizens, but only on an emergency  
23 basis.

24 Q. And these Medicaid programs are administered by  
25 the Louisiana Department of Health?

1 A. That is correct, Counsel.

2 Q. Is there a specific part of the Department of  
3 Health that is responsible for the administration of  
4 these programs?

5 A. So there is a Medicaid director within the  
6 Department of Health.

7 Q. Are all these Medicaid programs administered  
8 within that same department or are they separate like  
9 SNAP and FITAP were?

10 A. They're administered within the same department,  
11 to the best of my knowledge.

12 Q. How many noncitizens released under the IFR are  
13 enrolled in Medicaid in Louisiana?

14 A. With respect to that information, again, 8CFR  
15 Section 208.6 and 8CFR Section 1208.6, bar the  
16 disclosure of information related to asylum applications  
17 and with respect to individuals who have applied for  
18 credible fear. The State of Louisiana doesn't have the  
19 ability to determine that.

20 However, there is a company called  
21 Gainswell(phonetic), which is a financial intermediary  
22 that provides information about the individuals who  
23 receive Medicare in the State of Louisiana back to the  
24 Center for Medicaid and Medicare services, which is not  
25 called CMMS, but CMS. So that is information that is

1 available to the Department of Health and Human  
2 Services, and available to the Department of Justice,  
3 and the Department of Homeland Security.

4 Q. Can you repeat the name of that company you  
5 mentioned?

6 A. Gainswell. Gainwell. Gainwell Technology.

7 Q. And can you spell that for the record?

8 A. G-A-I-N-W-E-L-L, I believe.

9 Q. And you said it reports back to the State of  
10 Louisiana about the individuals receiving Medicaid?

11 A. Other way around. It reports back to -- they're  
12 the financial intermediary between HHS and the State, so  
13 they report back to HHS.

14 Q. And where did you get that information from?

15 A. I obtained that information through conversations  
16 that I've had with employees of the Department of  
17 Health.

18 Q. So my question was whether the state can identify  
19 the number of people released under the IFR who are  
20 using Medicaid. Are you implying that this company  
21 would somehow know that information?

22 A. No, they would report back on the individuals who  
23 have been granted Medicaid, that information would then  
24 go to the Federal Government, and the Federal Government  
25 could verify the how those individuals obtained asylum

1 status, the reasons for which they were paroled.

2 Q. So the --

3 A. But the State of Louisiana wouldn't have access  
4 to the information about the individuals with respect to  
5 the IFR because the only thing that they look at is the  
6 status of the individual of the noncitizen qualified or  
7 not qualified subject to five year bar.

8 Q. When an individual is eligible for Medicaid, do  
9 they receive a payment like the SNAP and FITAP program  
10 or is it similar to a health insurance where it would  
11 pay out claims if they need to receive medical  
12 treatment?

13 A. Louisiana actually does it both ways, so they  
14 have what's called a fee for service or FFS, which is  
15 somebody goes to the hospital, they receive the  
16 treatment, Louisiana gets billed with that, for that.

17 With respect to other individuals, there are six  
18 managed care organizations that the State of Louisiana  
19 contracts for that provided medical services and that's  
20 on a per member, per month basis. PMPM is what it's  
21 called.

22 Q. PMPM. So if they're eligible for Medicaid they  
23 are a member of these managed care facilities?

24 A. They're not facilities, they're organizations.  
25 MCOs is what they're called, and basically the MCO

1 provides the care to the individual based on a per  
2 member, per month basis, PMPM.

3 Q. So if somebody is eligible for Medicaid they are  
4 a member of these organizations?

5 A. Some are. Louisiana also does fee for service  
6 for other individuals, FFS.

7 Q. Are there any other specific services provided  
8 through the Medicaid program?

9 A. Other than Medicaid services?

10 Q. Well we've talked about FFS and the PMPM. Are  
11 there any other services that these individuals would  
12 receive if they're eligible for Medicaid?

13 MR. ST. JOHN: Objection. I'm looking at  
14 Arthur's face and he's having the same reaction that I  
15 am, which is the question is nonsensical.

16 MS. RYAN: And he can say that, Scott. We  
17 can keep the speaking objections to a minimum. If the  
18 witness does not understand the question, as I said at  
19 the beginning, he can tell me he does not understand the  
20 question.

21 MR. ST. JOHN: I don't understand the  
22 question. I'm his counsel and I don't understand the  
23 question.

24 MS. RYAN: Okay. But you're not testifying,  
25 so...

1 A. And Ms. Ryan, if I could, can you give me an  
2 example of something that would fall within that group?

3 Medicare is a, is a health program it provides  
4 health benefits to individuals.

5 BY MS. RYAN:

6 Q. Is there cash assistance provided through the  
7 Medicaid program?

8 A. Not to the best of my knowledge. But if it is it  
9 would be under the standards that are set forth in  
10 Federal Law.

11 Q. Are there any services or treatments that  
12 noncitizens are not eligible for if they're entitled to  
13 Medicaid?

14 A. Are you talking about medical services?

15 Q. Yes. I'm trying to understand if a noncitizen is  
16 eligible for Medicaid, right, they've met the other  
17 requirements, is there any other bars to what they can  
18 or cannot receive once they are eligible for Medicaid  
19 because of their immigration status?

20 A. Right. So if you are a qualified noncitizen not  
21 subject to a bar you receive Medicaid on the same basis  
22 as United States citizen or national.

23 With respect to individuals who are either  
24 nonqualified, noncitizens, or qualified noncitizens  
25 subject to the bar, they are eligible for emergency

1 Medicaid.

2 And in the case of children under the age of 18  
3 under Louisiana's expansion of CHIP they'd be eligible  
4 for CHIP.

5 And if it's a pregnant woman subject to  
6 restrictions, they would be eligible for CHIP Level 4.

7 Q. Is there any federal funding that is provided to  
8 the State of Louisiana for the Medicaid program?

9 A. Yes, there is.

10 Q. And what is that?

11 A. So it is subject to a federal Medicaid assistance  
12 percentage. The -- or FMEP. With respect to Louisiana  
13 the FMEP is 67.23 percent for regular Medicaid, which  
14 means that the remainder of that is money that it gets  
15 picked up by the State of Louisiana Department of  
16 Health.

17 Q. So the Federal Government pays 67.23 percent and  
18 Louisiana pays the rest?

19 A. Yes, that's actually published in the Federal  
20 Register by HHSCS.

21 Q. Is that money proactive or retroactive?

22 MR. ST. JOHN: Objection. Beyond the scope.  
23 Calls for testimony about a question of law.

24 A. I don't doubt of whether that's proactive or  
25 retroactive, I just don't know.

1 BY MS. RYAN:

2 Q. Okay. And is that a flat amount that the feds  
3 pay or is it based on the number of enrollees in the  
4 Medicaid program?

5 A. It's a percentage so it's based upon the amount  
6 of the Medicaid services that are provided.

7 MS. RYAN: Give me one second guys. We can  
8 --

9 THE WITNESS: Are we off the record?

10 MS. RYAN: We can be. I just -- I'm trying  
11 to see if I can cut some stuff and, you know, get us  
12 done by 2:30. So I just wanted to consult with my  
13 colleague for a moment, so let's go off the record.

14 THE WITNESS: So let's go off the record.

15 MS. RYAN: Yeah, just for a moment.

16 (Recess was taken.)

17 BY MS. RYAN:

18 Q. Does the Department of Health request a specific  
19 amount from the State Legislature for the Medicaid  
20 program?

21 A. It does to administer the Medicaid program.

22 In addition, as I mentioned before, there are  
23 MCOs that pay per member per month.

24 Q. And so does the number of members factor into how  
25 much money is requested from the Legislature?

1           A. It factors into -- well, so they do it based on  
2           historical perspectives based upon the amount of money  
3           that they have requested previously, and projections to  
4           that money?

5           Q. So based on money needed historically they make a  
6           projection of how much they might need for the upcoming  
7           year?

8           A. Going forward, yes.

9           Q. Does more people becoming eligible for Medicaid  
10          impact the amount of money that the Department requests  
11          from the Legislature?

12          A. To the best of my knowledge, yes, but it should  
13          be in the budget documents.

14          Q. Has the cost of --

15          A. But it definitely impacts -- it definitely  
16          impacts the amount of money that they have to pay  
17          subject to the FMAP, the Federal Medicaid Assistance  
18          Percentage.

19          Q. Because if there's more money -- excuse me.

20                 If there's more enrollees then there's less money  
21          to go around, correct?

22          A. Exactly.

23          Q. Has the cost of the Medicaid program changed  
24          since March of 2022?

25          A. So that is part of HB1, that would actually be

1 contained, let's see, it would have been in 2021. It  
2 would have been done in 2023, I believe that the amount  
3 of money for administrating the Medicaid program has  
4 gone up, but it should be in the budget documents.

5 Q. Are you able to articulate any specific harm to  
6 the Medicaid program that's only attributable to the  
7 IFR?

8 A. It would be the amount of money that the State of  
9 Louisiana would have to pay as its part of the FMAP with  
10 respect to that. In addition, medical care, of course,  
11 is a limited quantity as we all saw during COVID. So  
12 the more people that draw upon the medical system it's  
13 going to have a direct impact upon all people who seek  
14 medical services.

15 Q. But couldn't that generally be about immigrants  
16 in the state and not specific to the IFR?

17 A. To the degree that individuals are granted asylum  
18 more quickly, to the degree that they are Haitian and  
19 Cuban entrants who are released either because they  
20 filed asylum applications or under the parole provision  
21 in the IFR, that would actually be a real affect.

22 Q. But if you are unable to know which individuals  
23 came in under the IFR because of the CFR cites you have  
24 provided, how can the state say these harms are  
25 attributable only to the IFR?

1           A. We could project it out based upon the number of  
2 people -- we can't project out the number, but we can  
3 project out that there would be an affect based upon  
4 more people becoming eligible for asylum more quickly.

5           Currently for non-detained cases people wait  
6 about four years according to track the transactional  
7 record access clearinghouse at Syracuse University.

8           The IFR sets a goal of completion by the asylum  
9 officer within 60 days, so, you know, that's a much more  
10 quick process.

11           Moreover, as I think as I noted before, under  
12 Section 208 of the INA foreign nationals who are granted  
13 asylum, or actually noncitizens in this context who are  
14 granted asylum, can petition for immediate family  
15 members to follow to join.

16           Q. But you don't know if any individuals under the  
17 IFR are even in Louisiana so you don't know if they're  
18 using the Medicaid program?

19           A. Well, I know that Louisiana was actually one of  
20 the spots that was specified for the initial rollout of  
21 the asylum officer rule, and we know from documents from  
22 the Department of Homeland Securities asylum process in  
23 rule cohort that six individuals have been subject to  
24 the IFR in the State of Louisiana. We know that four of  
25 those individuals were actually referred to an

1 immigration judge, the two of the others had their case  
2 administratively closed.

3 Honestly, Ms. Ryan, I don't understand the  
4 administrative closure part because there's nothing in  
5 the IFR that allows for administrative closure. But we  
6 also know that there are asylum applicants within the  
7 State of Louisiana.

8 Q. Just to clarify, you've said multiple times in  
9 this deposition that you are unable to know whether  
10 these asylum seekers, these asylees, were released or  
11 granted asylum under the IFR, correct? You said that  
12 multiple times during this deposition.

13 A. That's correct, Counsel, because that's not  
14 something --

15 Q. Okay. So --

16 A. -- that would be knowable to the State of  
17 Louisiana.

18 Q. Exactly, so it is not knowable whether the person  
19 came in or was released under the IFR, so how can you  
20 say that you have specific harms to the Medicaid program  
21 specific to people coming in under the IFR?

22 A. With respect to that, we could project out the  
23 more quickly people are granted asylum.

24 Q. I didn't ask about projections, Mr. Arthur. I  
25 asked if you can articulate a specific harm to the

1 Medicaid program from the IFR?

2 A. With respect --

3 THE WITNESS: You're on mute.

4 MR. ST. JOHN: Counsel, please speak  
5 respectfully to the witness. It's misleading to suggest  
6 it has to be a past harm. He is testifying about a  
7 harm. Please let the witness answer the question.

8 You can answer, Mr. Arthur.

9 A. With respect to the quantum of harm to the State  
10 of Louisiana, because the State of Louisiana has no way  
11 of knowing which of those people have been subject to  
12 the IFR, only the Federal Government only in this  
13 situation CMS, HHS, DOH, DHS would actually know the  
14 number of individuals who have come into Louisiana who  
15 would have applied for those benefits within the State  
16 of Louisiana. There's no special code that appears on  
17 the employment documents for those individuals. It's an  
18 unknowable fact, but it is one that's in the possession  
19 of the Federal Government of the executive branch.

20 BY MS. RYAN:

21 Q. Switching to general state topics.

22 Are you able to say how many noncitizens released  
23 under the IFR have established residence in Louisiana?

24 A. As I think I mentioned before, with respect to  
25 that I can tell you that there are individuals who are

1 processed in Louisiana under the IFR. I know that two  
2 of those individuals cases were administratively closed.

3 With respect to other individuals who have  
4 relocated within Louisiana after being granted benefits  
5 from the IFR, I can't tell you. But I can tell you that  
6 the only individual that would know that, the only  
7 entity that would know that, would be the executive  
8 branch.

9 Q. I'm showing you what will be marked as Exhibit F,  
10 I believe. H. I'll pull it up here.

11 (Exhibit H was marked for identification.)

12 A. And if I could just to clarify the statement that  
13 I made before. The DHS asylum processing rule cohort is  
14 only current to April of 2023.

15 BY MS. RYAN:

16 Q. I'm sorry, you cut out at the beginning, can you  
17 just repeat the beginning of your answer for that?

18 A. I apologize. The DHS asylum processing cohort  
19 is only current through April of 2023. It was last  
20 issued in October of 2023, but it's not current.

21 Q. Okay. Do you see a document on your screen?

22 A. I do.

23 Q. Okay. Scrolling down.

24 One second. I don't know why it's -- let me try  
25 that again.

1           Okay. Do you see that on your screen,  
2           Mr. Arthur?

3           A. I do, Counsel. Thank you.

4           Q. Okay. So this is the Second Amended Complaint  
5           for this case, correct?

6           A. That's the header, yes, ma'am.

7           Q. Okay. And for the record, it's ECF86.

8           You said you reviewed this document?

9           A. I did, Counsel, yes.

10          Q. Okay. So if we look down at paragraph 2, we can  
11          see this claim right here. "Asylum IFR makes it  
12          substantially easier for unauthorized economic migrants  
13          to enter the United States and obtain asylum through  
14          false claims."

15          Do you see that sentence?

16          A. I do.

17          Q. What is the State of Louisiana's basis for that  
18          claim?

19          A. With respect to that claim the asylum IFR strips  
20          away several key procedural safeguards that were on the  
21          system with respect to identifying non-meritorious and  
22          fraudulent claims that existed under the preexisting  
23          removal proceeding adjudication under Section 240 of the  
24          INA.

25          As the Supreme Court noted in Thuraissigiam vs.

1 DHS many people come to the border illegally, and I'm  
2 going to -- this is Justice Alito's entry, I don't have  
3 the document in front of me. But, you know, he noted  
4 that many of them applied for asylum, most of them are  
5 denied and some of them are fraudulent.

6 The best mechanism that I'm aware of with respect  
7 to determining the validity of a claim is the  
8 confrontational system that exists in the immigration  
9 core.

10 Asylum officer adjudications at AMIs are not  
11 adversarial. There is no attorney present on behalf of  
12 the United States. The only attorney that is present,  
13 if at all, is the one on behalf of the respondent. And  
14 I've been an immigration lawyer, been an immigration  
15 judge, and I conclude -- and a lawyer, and I conclude  
16 that it is the best method of fact finding that there is  
17 in this context.

18 Q. Look down here at paragraph 3.

19 A. I'll also not that there were studies that were  
20 done by USCIS that says fraud in the removal process and  
21 found high levels of fraud in that process.

22 Q. So here in paragraph 3 it says that the IFR will  
23 substantially increase the approval rate of  
24 non-meritorious asylum claims.

25 What evidence does Louisiana have for that?

1           A. With respect to that, the Department of Justice  
2 actually Executive Officer of Immigration Review  
3 publishes rates of asylum approvals and denials, and  
4 other things that happen in asylum cases, with respect  
5 to aliens who have been subject to a credible fear  
6 claim.

7           The -- for the first three quarters of the  
8 FY2023, the asylum grant rate in those cases is 12.54  
9 percent. With respect to the asylum processing rule  
10 under the DHS asylum processing rule cohort document,  
11 they indicate that the grant rate is anywhere between  
12 34.7 percent and 23 percent, and the delta between those  
13 two numbers is something that I alluded to before which  
14 is administrative closure.

15           Administrative closure is one of those things  
16 that's permitted before immigration courts to close  
17 cases for various reasons, but generally to allow  
18 someone to become eligible for a benefit somewhere else.  
19 I'm really not entirely clear why that would be  
20 appropriate in this instance, but the cohort report does  
21 indicate that some of them are because the alien failed  
22 to appear at the -- the alien applicant failed to appear  
23 at the interview, but they don't break it down anymore  
24 than that.

25           So there's a significant difference between the

1       asylum grant rate before immigration judges and the  
2       asylum grant rate is reported by DHS in the cohort  
3       report.

4               And I think that's actually written on this  
5       before and I believe that that appears in the record.

6               Q.   Yes, well, in your expert testimony that was --  
7       you covered, but we're speaking on behalf of the State  
8       of Louisiana today, so we won't go into that.

9               A.   I'll also note that the State of Louisiana does  
10       actually have within the Department of Justice it's own  
11       expertise with respect to these matters.   Tracy Short,  
12       who is an assistant AG in DOJ was a former trial  
13       attorney with both, INS and ICE.   He was a Former Deputy  
14       District Counsel with ICE.   He was the Former Principal  
15       Legal Adviser at ICE.   And he was a Former Chief  
16       Immigration Judge with the United States.

17              Q.   And he works for the State of Louisiana now?

18              A.   To the best of my knowledge, I believe that he's  
19       an Assistant Attorney General there.

20              Q.   Okay.   So if we look back at paragraph 3.   "The  
21       increase in asylum approval rates will incentivize even  
22       higher rates of illegal immigration into the United  
23       States."

24              What is illegal immigration in this context mean?

25              A.   Illegal immigration means the unlawful entry of a

1 foreign national into the United States in violation of  
2 Section 212(a) of the INA, particularly Section  
3 212(a)(7), and Section 212(a)(6)(a), unlawful entry.

4 Also with respect to inadmissibility under  
5 Section 212(a)(7), at the ports of entry.

6 Collectively we refer to those as encounters, so  
7 encounters is the sum total of aliens apprehended by  
8 border patrol after entering illegally, plus those  
9 noncitizens who are deemed inadmissible at the ports of  
10 entry.

11 Q. What evidence do you have that migrants are aware  
12 of the IFR?

13 A. The -- there are a -- most -- many of the  
14 noncitizens who enter the United States come with  
15 smuggling organizations. Those smugglers induce  
16 individuals to come to the United States based upon  
17 promises that they've made.

18 In fact, President Biden when he was vice  
19 president, I believe talked about this in Guatemala City  
20 in June of 2014, so the greater availability of this is  
21 one of those things that, you know, is common knowledge  
22 within individuals who have expertise in immigration.  
23 The individuals are enticed to enter the United States,  
24 at the past, of smugglers.

25 Moreover, one of my colleagues, Todd Benzman, was

1 down at the southwest border in during the summer, and  
2 Mr. Benzman asked an asylum officer why so many people  
3 were coming now. And he was told by the asylum officer  
4 -- not by the asylum officer. By the boarder patrol  
5 agent, let me correct that -- that individuals were  
6 coming to receive cash payments in the United States.

7 Mr. Benzman wasn't really sure what they were  
8 talking about. He spoke to a woman who was a Venezuela  
9 national who said that the availability of such benefits  
10 was actually broadcast in the media in Venezuela and  
11 should come directly to this country from Venezuela.

12 Q. But your friend heard from an asylum officer, who  
13 heard from migrants that they are aware of certain  
14 things but not specifically the IFR?

15 A. With respect to the IFR, no, but they did talk  
16 about cash benefits which really didn't make any sense  
17 in this context.

18 Q. Okay. But my question was about the IFR. And I  
19 -- you know, I'm just looking at the clock and I want to  
20 get you out of here in time.

21 What --

22 A. The greater -- the greater --

23 Q. What evidence or -- I'm sorry.

24 What evidence, or data, or documents can you  
25 point to that this IFR is incentivizing migration?

1           A. Anything that facilitates the entry and presence  
2           in the receipt of benefits in the United States is  
3           something that will encourage people to come to the  
4           United States. We refer to them as push factors that  
5           push people out of their country and pull factors that  
6           bring them to the United States.

7           Judge T. Kent Wetherell, II, in Florida vs.  
8           United States, actually talked about the fact that the  
9           release of migrants into the country was actually  
10          encouraging more migrants to come to this country.

11          In the National Defense Authorization Act of  
12          2017, Section 1092 of that which is called NDA 2017, the  
13          Congress set forth metrics to determine the  
14          effectiveness of what was called the consequence  
15          delivery system, and reports have to be filed annually  
16          by DHS to Congress, and also to the government  
17          accountability office with respect to that.

18          And what that indicates is that individuals who  
19          enter the United States unlawfully in violation of  
20          Section 212 of the INA respond to consequences that will  
21          be imposed on them, as well as to non-consequences that  
22          would be imposed on them.

23          Q. Okay. So my question was what documents or  
24          evidence do you have that this IFR is incentivizing  
25          migration, you cited to a decision from a court in the

1 Northern District of Florida in a lawsuit that did not  
2 have anything to do with the IFR, and you cited to a  
3 document from 2017 which was five years before the IFR  
4 took place.

5 So --

6 A. Well, actually that's an annual reporting that is  
7 required of DHS every year, so it's in NDA 2017, it's  
8 now in federal statute, it's 6USC, I think it's 223, but  
9 don't quote me on that.

10 It's in Title 6 of the U.S. Code, and it is the  
11 statement of Congress with respect to an understanding  
12 that consequences encourage people to come to the United  
13 States. Or discourage people from coming to the United  
14 States.

15 And with respect to the current statement that I  
16 made about Mr. Benzman. Mr. Benzman actually recorded  
17 the border patrol agent while he was telling him that  
18 and actually spoke directly to the Venezuela national  
19 who told him that as well.

20 MS. RYAN: Okay. Well, we're going to call  
21 for production of that then. If you're saying that's  
22 relevant to showing incentivizing migration under the  
23 IFR, then, Counsel, we would call for production of that  
24 recording.

25 BY MS. RYAN:

1 Q. I'm showing you what we're marking as Exhibit I.

2 A. It's on Twitter, by the way.

3 Q. I'm showing you what we're marking as Exhibit I.

4 For the record this is ECF22.

5 (Exhibit I was marked for identification.)

6 BY MS. RYAN:

7 Q. Have you ever seen this document before, Mr.

8 Arthur?

9 A. I don't know that I have.

10 Q. You can see here from the title this is a  
11 memorandum in support of a motion to postpone the  
12 effective date of the asylum IFR or in the alternative a  
13 preliminary injunction. This was filed in the docket in  
14 this case.

15 Looking at page -- looking at page 12, if I can  
16 get my keyboard to work.

17 Can you read that? Do you need me to zoom in?

18 A. I can read, I wear bifocals.

19 Q. Just looking right here. Referring to AO's  
20 asylum officers, who have an infamously lax track  
21 record. Do you know what that means?

22 A. In this particular context we can review the  
23 credible fear grant rates, the Department of Justice  
24 publishes that. And the document that I think is in the  
25 record, between FY2008 and the fourth quarter of FY2019.

1 And it shows that asylum officers find credible fear in  
2 about 81 percent of all cases, but out of a hundred  
3 individuals who claim a fear of harm or request asylum,  
4 but at the end of the day, only about 14 percent of that  
5 100 were just less than 17 percent of them were granted  
6 asylum.

7 With respect to the lax track record, we know  
8 that USCIS, asylum officers were actually represented by  
9 a union, I think it's called Local 116.

10 Local 116 has filed amicus briefs and most  
11 recently, I think it was most recently, filed a comment  
12 in response to what was called the Circumvention of  
13 Lawful Pathways rule, in which they made statements  
14 about the safety of foreign nationals in foreign  
15 countries. You know, having been an adjudicator myself,  
16 having been a member of an immigration judge union that  
17 suggests a certain lack of objectivity with respect to  
18 those individuals.

19 In fact, as an immigration judge I was under very  
20 tight restrictions to make any public statement on  
21 social media.

22 I also note that Jaddou, who is the current  
23 director of USCIS, who was also a former colleague of  
24 mine when I was on the judiciary committee. I can't  
25 remember whether she worked for Zoe Lofgren, who was a

1 member of the committee or who was a committee staffer,  
2 but she is currently the director of USCIS.

3 Ms. Jaddou was previously the head of something  
4 called Department of Homeland Security Watch and  
5 America's Voice, which is an activist organization. And  
6 when she was in that role she talked about CBP being  
7 President Trump's I think personal malitia was the  
8 phrase that she used. She is the person --

9 Q. Mr. Arthur --

10 A. I'm sorry.

11 Q. -- I think we've gotten very far off topic, so  
12 let's just focus back in.

13 You said the track record is related to asylum  
14 officers finding of credible fear, right?

15 A. Lack of objectivity. And if you take a look at  
16 the asylum officer manual with respect to any review  
17 process in the affirmative application process, the  
18 review consists of at the senior asylum officer level of  
19 ensuring that the -- that the, that the grant is clear,  
20 concise, complete and correct, but that is just one of  
21 several factors, including the fact that the A-file for  
22 the case is in neat order and that it doesn't have any  
23 loose papers and that it has other documents that are  
24 attached.

25 That's very different from the immigration court

1 system in which either party can appeal a decision of  
2 the asylum grant or an asylum denial to the Board of  
3 Immigration Appeals.

4 And then the Department of Homeland Security,  
5 ICE, can seek certification from the Attorney General or  
6 the alien respondent can seek, can file a petition for  
7 review with the Circuit Courts under Section 242 of the  
8 INA.

9 Q. There's a different standard for granting asylum  
10 than there is for finding credible fear, isn't there?

11 A. There is. But the credible fear standard is  
12 lower, but it's not that much lower. It's a substantial  
13 likelihood that the person is going to be eligible for  
14 asylum. Substantial likelihood is lower than the well  
15 founded fear statute, but it's not significantly lower  
16 that it would account for a huge drop off from 81  
17 percent to 14 percent or 17, just less than 17 percent,  
18 depending on how you would assess it.

19 Q. Okay. So the credible fear standard is lower  
20 than the asylum standard?

21 A. It is, but in my expert opinion it's not  
22 significantly lower.

23 I also -- and again, this is going to be not  
24 expert -- I'm sorry. Not expert testimony for the  
25 state, but in my own individual --

1 Q. Mr. Arthur, you're speaking on behalf of the  
2 State today.

3 A. Okay.

4 Q. So you will have a deposition to speak to your  
5 expert opinion, but if it's not on behalf of the State  
6 of Louisiana, then we shouldn't talk about it today.

7 A. Okay.

8 Q. Individuals who work in Louisiana have to pay  
9 income tax, right?

10 A. I believe they do. I don't know what the minimum  
11 level for income tax is, and there's an earned income  
12 tax credit that's available.

13 Q. Okay. But that's a yes, they pay income tax?

14 A. Some do.

15 Q. And if an individual buys property they pay  
16 property tax?

17 A. Yes, they do.

18 Q. And if they shop in the state they pay sales tax?

19 A. Yes, they do.

20 Q. And that includes noncitizens, they are not  
21 exempt from those taxes based on their immigration  
22 status?

23 A. No, there's no real way to assess that except  
24 with respect to the ITC.

25 Q. So the State of Louisiana collects income tax,

1 property tax, and sales tax from noncitizens who are  
2 within their state, correct?

3 A. That is correct. But if I may --

4 Q. Mr. Arthur, there's no question pending.

5 A. Sorry, Counsel.

6 MS. RYAN: Give me one moment. I believe we  
7 should be all set, but let me just double check with the  
8 team.

9 (Recess was taken.)

10 BY MS. RYAN:

11 Q. Mr. Arthur, would you like to revise, or change  
12 any of the answers that you gave today?

13 A. I don't believe so, Counsel.

14 MR. ST. JOHN: The witness reserves the  
15 right to review.

16 A. Of course I reserve the right to review.

17 Q. Yes, of course. But while we're still on the  
18 record --

19 A. You said that at the outset, yes, ma'am.

20 Q. Yes.

21 MS. RYAN: Okay. Scott, did you have any  
22 follow up questions?

23 MR. ST. JOHN: Yes, very briefly.

24 EXAMINATION

25 BY MR. ST. JOHN:

1 Q. Mr. Arthur, you talked to -- in preparation for  
2 the deposition today, you talked to the director of  
3 Medicaid at the Louisiana Department of Health, correct?

4 A. That is correct.

5 Q. And members of her staff, correct?

6 A. I did, sir.

7 Q. You talked to the TANF director and the SNAP  
8 director at the Department of Children and Family  
9 Services, correct?

10 A. That is correct, sir.

11 Q. You talked to the deputy superintendent for  
12 finance of the Louisiana Department of Education,  
13 correct?

14 A. That is correct.

15 Q. You talked to Former Chief Immigration Judge  
16 Tracy Short of the Louisiana Department of Justice,  
17 correct?

18 A. That is correct.

19 Q. And Mr. Short is it's fair to say an expert on  
20 immigration law and issues related to immigration?

21 MS. RYAN: Objection.

22 A. With respect to my resume I'm pretty proud of it,  
23 but Mr. Short's resume puts mine to shame, in all  
24 modesty.

25 BY MR. ST. JOHN:

1 Q. You reviewed documents in preparation for today's  
2 deposition, correct?

3 A. That is correct.

4 Q. Hundreds and maybe thousands of pages?

5 A. I did, Counsel, yes.

6 Q. How many hours did you spend reviewing documents?

7 A. I spent somewhere between 40 and 80 hours  
8 reviewing documents.

9 And, again, I wish I can give you a set time. I  
10 didn't sit down for a 40-hour period, but I would review  
11 the documents so that I would be as adept as an expert  
12 on these issues as I could be.

13 Q. And in developing knowledge you learned that  
14 there are a large number of asylees who participate in  
15 Louisiana's SNAP program, correct?

16 A. I did. There was a document to that effect in  
17 the record.

18 Q. And you learned that there are a large number of  
19 asylees and asylum applicants that participate in the  
20 Louisiana's Medicaid program, correct?

21 A. That is correct as well, sir.

22 Q. And --

23 A. And, in fact, the numbers have increased, I  
24 believe it was -- in the time frame that I was looking  
25 at hasn't quite doubled but it's increased by about 45

1 percent since 2019.

2 Q. And the State has ever reason to believe that  
3 those large numbers will continue, correct?

4 A. Yes. They have -- nothing that anyone told me  
5 indicated that they were going to decrease. And quite  
6 frankly, it is a conclusion that they will increase.

7 Q. Mr. Arthur, is the State of Louisiana aware of a  
8 CBO study regarding the impact on taxes from immigrants?

9 A. In December of 2007 -- and by CBO you're  
10 referring to the Congressional Budget Office?

11 Q. Yes, Mr. Arthur.

12 A. Yeah, the Congressional Budget Office actually  
13 did an analysis of taxes that are paid by unauthorized  
14 noncitizens in the United States, and it was a survey  
15 and an analysis of various studies that had been done by  
16 other organizations, and it concluded that the amount of  
17 taxes that those individuals pay didn't actually -- were  
18 lower than the amount of the services that they  
19 received. Primarily -- not primarily, but a lot of that  
20 was education.

21 Q. And Mr. Arthur, you were asked a series of  
22 questions about incentivization and push, pull. Is the  
23 State of Louisiana aware of then Chief Ortiz's testimony  
24 in Florida of the United States on this issue?

25 A. When you refer to Chief Ortiz, I assume you're

1 referring to border patrol Chief Raul Ortiz?

2 Q. Correct.

3 A. Yeah, so Raul Ortiz was deposed in the course of  
4 the litigation in United States vs. Florida, and he made  
5 several statements with respect to the flow and the  
6 incentivization of the flow.

7 Q. And the statements -- Chief Ortiz's statements,  
8 and forgive me I don't have his testimony in front of  
9 me, were part of -- addressed a broader principal that  
10 border flow response to policy, is that a fair  
11 statement?

12 A. Yes. And honestly that's always been known.  
13 Border patrol does assessments of what they anticipate  
14 the flow was going to be in time.

15 And, again, I was -- served as an Associate  
16 General Counsel at the INS on the enforcement team, I  
17 had jurisdiction over border patrol and I'm familiar  
18 with those analyses.

19 Q. And that Chief Ortiz's testimony was supported by  
20 documents produced, I believe, in connection with the  
21 MPP litigation surveys of migrants, is that correct?

22 MS. RYAN: Objection.

23 A. With respect to --

24 Can you ask the question again, Counsel? I  
25 apologize.

1 BY MR. ST. JOHN:

2 Q. Is the State of Louisiana aware of Federal  
3 Government documents related to surveys of migrants on  
4 push/pull factors?

5 MS. RYAN: Objection.

6 BY MR. ST. JOHN:

7 Q. You can answer, Mr. Arthur.

8 A. Yeah, documents that were presented in force of  
9 that litigation I think it was more than a year of  
10 discovery and analysis.

11 MR. ST. JOHN: Thank you, Mr. Arthur. I  
12 have no further questions.

13 MS. RYAN: Nothing further. Thank you very  
14 much, Mr. Arthur. I appreciate your time.

15 (Deposition concluded at 2:36 p.m.)

16 (Signature reserved)

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1 STATE OF NORTH CAROLINA

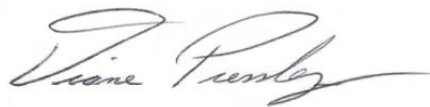
2 COUNTY OF WAKE

3  
4 REPORTER'S CERTIFICATE

5  
6 I, Diane Pressley, Court Reporter and Notary  
7 Public, do hereby certify that the above-named witness  
8 was duly sworn by me prior to the taking of the  
9 foregoing deposition; and that said deposition was taken  
10 and transcribed under my supervision, to the best of my  
11 ability; and that the foregoing pages, inclusive,  
12 constitute a true and accurate transcription of the  
13 testimony of the witness.

14 I do further certify that the persons were  
15 present as stated in the caption.

16 I do further certify that I am not of counsel for  
17 or in the employment of any of the parties to this  
18 action, nor am I interested in the results of this  
19 action.  
20  
21  
22

23 

24 DIANE PRESSLEY

25 Notary Public #201019500159

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1 Scott St. John, Esquire  
2 Stjohnnj@ag.louisiana.gov

3 December 3rd, 2023

4 RE: State Of Arizona Et Al v. Garland, Merrick Et Al  
5 11/30/2023, Andrew Arthur , 30(b)(6) (#6327624)

6 The above-referenced transcript is available for  
7 review.

8 Within the applicable timeframe, the witness should  
9 read the testimony to verify its accuracy. If there are  
10 any changes, the witness should note those with the  
11 reason, on the attached Errata Sheet.

12 The witness should sign the Acknowledgment of  
13 Deponent and Errata and return to the deposing attorney.  
14 Copies should be sent to all counsel, and to Veritext at  
15 (erratas-cs@veritext.com).

16  
17 Return completed errata within 30 days from  
18 receipt of testimony.

19 If the witness fails to do so within the time  
20 allotted, the transcript may be used as if signed.

21  
22 Yours,  
23 Veritext Legal Solutions  
24  
25

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2 Andrew Arthur , 30(b)(6) (#6327624)

3 E R R A T A S H E E T

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6 REASON\_\_\_\_\_

7 PAGE\_\_\_\_\_ LINE\_\_\_\_\_ CHANGE\_\_\_\_\_

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9 REASON\_\_\_\_\_

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21 REASON\_\_\_\_\_

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23 \_\_\_\_\_

24 Andrew Arthur , 30(b)(6)

Date

25

State Of Arizona Et Al v. Garland, Merrick Et Al

Andrew Arthur , 30(b)(6) (#6327624)

ACKNOWLEDGEMENT OF DEPONENT

I, Andrew Arthur , 30(b)(6), do hereby declare that I have read the foregoing transcript, I have made any corrections, additions, or changes I deemed necessary as noted above to be appended hereto, and that the same is a true, correct and complete transcript of the testimony given by me.

\_\_\_\_\_  
Andrew Arthur , 30(b)(6)

\_\_\_\_\_  
Date

\*If notary is required

SUBSCRIBED AND SWORN TO BEFORE ME THIS

\_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
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[01130 - 3rd]

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## [unlawful - work]

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS

COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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